TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 12. DEPARTMENT OF ENVIRONMENTAL QUALITY UNDERGROUND STORAGE TANKS

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 02-3).

Editor's Note: Several Sections of Chapter 12 were adopted and amended under an exemption from the provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 49-1014, and §§ 49-1052 (B) and (O). Exemption from A.R.S. Title 41, Chapter 6 means the Department was not required to submit these Sections to the Governor's Regulatory Review Council for review. Because these rules are exempt from the regular rulemaking process, Title 18, Chapter 12 is printed on blue paper.

ARTICLE 1. DEFINITIONS; APPLICABILITY

Article 1, consisting of Sections R18-12-101 through R18-12-103, adopted effective September 21, 1992 (Supp. 92-3).

Section

ARTICLE 2. TECHNICAL REQUIREMENTS

Article 2, consisting of Sections R18-12-210 and R18-12-211, R18-12-220 through R18-12-222, R18-12-230 through R18-12-234, R18-12-240 through R18-12-245, R18-12-270 through R18-12-274, and R18-12-280 and R18-12-281, adopted effective July 30, 1996 (Supp. 96-3).

Section

ARTICLE 3. FINANCIAL RESPONSIBILITY

Article 3, consisting of Sections R18-12-322 through R18-12-325, adopted effective July 30, 1996 (Supp. 96-3).

Article 3, consisting of Sections R18-12-301 through R18-12-321, adopted effective September 21, 1992 (Supp. 92-3).

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Authority: A.R.S. § 49-1031(H) and (I)

Article 4, consisting of Sections R18-12-401 through R18-12-410, adopted as permanent rules effective December 26, 1991.

Article 4, consisting of Sections R18-12-401 through R18-12-410, readopted as temporary rules effective June 20, 1991, pursuant to A.R.S. 49-1031(H) and (I), effective for 180 days. By law, these rules are included in the Arizona Administrative Code.

Article 4, consisting of Sections R18-12-401 through R18-12-410, readopted as temporary rules effective December 28, 1990, pursuant to A.R.S. 49-1031(H) and (I), effective for 180 days. By law, these rules are included in the Arizona Administrative Code.

Article 4, consisting of Sections R18-12-401 through R18-12-410, adopted as temporary rules effective July 3, 1990, pursuant to A.R.S. 49-1031(H) and (I), effective for 180 days. By law, these rules are included in the Arizona Administrative Code.

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Article 7, consisting of Sections R18-12-701 through R18-12-714, adopted effective May 23, 1996 (Supp. 96-2).

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Article 8, consisting of Sections R18-12-801 through R18-12-809, adopted effective December 6, 1996 (Supp. 96-4).

Section

ARTICLE 1. DEFINITIONS; APPLICABILITY

R18-12-101. Definitions

In addition to the definitions prescribed in A.R.S. §§ 49-1001 and 49-1001.01, the terms used in this Chapter have the following meanings:

"Accidental release" means, with respect to Article 3 only, any release of petroleum from an UST system that is neither expected nor intended by the UST system owner or operator, that results in a need for one or more of the following:

Corrective action,

Compensation for bodily injury, or

Compensation for property damage.

"Ancillary equipment" means any device used to distribute, dispense, meter, monitor, or control the flow of regulated substances to and from an UST system.

"Annual" means, with respect to R18-12-240 through R18-12-245 only, a calendar period of 12 consecutive months.

"Applicant," for purposes of Article 7 only, means an owner or operator who applies for a grant from the UST grant account.

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

"Aviation fuel," for the purpose of Article 4 only, has the definition at A.R.S. § 28-101.

"Bodily injury" means injury to the body, sickness, or disease sustained by any person, including death resulting from any of these at any time.

"CAP" means corrective action plan.

"Cathodic protection" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. At a minimum, such a person shall have education and experience in soil receptivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

"CERCLA" means the federal Comprehensive Environmental Response, Compensation, and Liability Act as defined in A.R.S. § 49-201.

"CFR" means the Code of Federal Regulations, with standard references in this Chapter by Title and Part, so that "40 CFR 280" means Title 40 of the Code of Federal Regulations, Part 280.

"Change-in-service" means changing the use of an UST system from the storage of a regulated substance to the storage of a non-regulated substance.

"Chemical of concern" means any regulated substance detected in contamination from the LUST site that is evaluated for potential impacts to public health and the environment.

"Chief financial officer" means, with respect to local government owners and operators, the individual with the overall authority and responsibility for the collection, disbursement, and use of funds by the local government.

"Clean Water Act" has the definition at A.R.S. § 49-201.

"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another under conditions likely to be encountered in the UST during the operational life of the UST system.

"Conceptual site model" means a description of the complete current and potential exposure pathways, based on existing and reasonably anticipated future use.

"Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors that are attached to a tank system and through which regulated substances flow. For the purpose of determining how much piping is connected to an individual UST system, the piping that joins multiple tanks shall be divided equally between the tanks.

"Consultant" means a person who performs environmental services in an advisory, investigative, or remedial capacity.

"Contamination" means the analytically determined existence of a regulated substance within environmental media outside the confines of an UST system, that originated from the UST system.

"Contractor" means a person who is required to obtain and hold a valid license from the Arizona Registrar of Contractors which permits bidding and performance of removal, excavation, repair, or construction services associated with an UST system.

"Controlling interest" means direct ownership of at least 50 percent of a firm, through voting stock, or otherwise.

"Corrective action services" means any service that is provided to fulfill the statutory requirements of A.R.S. § 49-1005 and the rules made under § 49-1005.

"Corrective action standard" means the concentration of the chemical of concern in the medium of concern that is protective of public health and welfare and the environment based on either pre-established non-site-specific assumptions or site-specific data, including any applied environmental use restriction.

"Corrosion expert" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. The person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Cost ceiling amount" as described in R18-12-605 means the maximum amount determined by the Department to be reasonable for a corrective action service.

"Current assets" means assets which can be converted to cash within one year and are available to finance current operations or to pay current liabilities.

"Current liabilities" means those liabilities which are payable within one year.

"Decommissioning" means, with respect to Article 8 only, activities described in R18-12-271(C)(1) through R18-12-271(C)(4).

"De minimis" means that quantity of regulated substance which is described by one of the following:

When mixed with another regulated substance, is of such low concentration that the toxicity, detectability, or corrective action requirements of the mixture are the same as for the host substance.

When mixed with a non-regulated substance, is of such low concentration that a release of the mixture does not pose a threat to public health or the environment greater than that of the host substance.

"Department" means the Arizona Department of Environmental Quality.

"Derived waste" means any excavated soil, soil cuttings, and other soil waste; fluids from well drilling, aquifer testing, well purging, sampling, and other fluid wastes; or disposable decontamination, sampling, or personal protection equipment generated as a result of release confirmation, LUST site investigation, or other corrective action activities.

"Dielectric material" means a material that does not conduct electrical current and that is used to electrically isolate UST systems or UST system parts from surrounding soils or portions of UST systems from each other.

"Diesel" means, with respect to Article 4 only, a liquid petroleum product that meets the specifications in American Society for Testing and Materials Standard D-975-94, "Standard Specification for Diesel Fuel Oils" amended April 15, 1994 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

"Director" means the Director of the Arizona Department of Environmental Quality.

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Eligible person" means, with respect to Article 6 only, a member of the class of persons regulated by A.R.S. Title 49, Chapter 6, and the rules promulgated under A.R.S. Title 49, Chapter 6, not otherwise excluded under A.R.S. § 49-1052, and including all of the following:

Any owner, operator, or designated representative of an owner or operator.

A political subdivision under A.R.S. § 49-1052(H).

A person described by A.R.S. § 49-1052(I).

"Emergency power generator" means a power generator which is used only when the primary source of power is interrupted. The interruption of the primary source of power shall not be due to any action or failure to take any action by the owner or operator of either the emergency generator or of the UST system which stores fuel for the emergency generator.

"Engineering Control" for soil, surface water and groundwater contamination has the definition at R18-7-201.

"Excavation zone" means the volume that contains or contained the tank system and backfill material and is bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Excess lifetime cancer risk level" for soil, surface water, and groundwater contamination, has the definition at R18-7-201.

"Existing tank system" means a tank system used to contain an accumulation of regulated substances on or before December 22, 1988, or for which installation has commenced on or before December 22, 1988.

"Exposure" for soil, surface water, and groundwater contamination, has the meaning defined in R18-7-201.

"Exposure assessment" means the qualitative or quantitative determination or estimation of the magnitude, frequency, duration, and route of exposure or potential for exposure of a receptor to chemicals of concern from a release.

"Exposure pathway" for soil, surface water, and groundwater contamination, has the meaning defined in R18-7-201.

"Exposure route" for soil, surface water, and groundwater contamination, has the definition at R18-7-201.

"Facility" means a single parcel of property and any contiguous or adjacent property on which one or more UST systems are located.

"Facility identification number" means the unique number assigned to a facility by the Department either after the initial notification requirements of A.R.S. § 49-1002 are satisfied, or after a refund claim is submitted and approved under R18-12-409.

"Facility location," for the purpose of Article 4 only, means the street address or a description of the location of a storage facility.

"Facility name" means the business or operational name associated with a storage facility.

"Farm tank" means a tank system located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank shall be located on the farm property. The term "farm" includes fish hatcheries, rangeland, and nurseries with growing operations.

"Financial reporting year" means the latest consecutive 12-month period, either fiscal or calendar, for which financial statements used to support the financial test of self-insurance under R18-12-305 are prepared, including the following, if applicable:

A 10-K report submitted to the Securities and Exchange Commission.

An annual report of tangible net worth submitted to Dun and Bradstreet.

Annual reports submitted to the Energy Information Administration or the Rural Electrification Administration.

"Firm" means any for-profit entity, nonprofit or not-for-profit entity, or local government. An individual doing business as a sole proprietor is a firm for purposes of this Chapter.

"Flow-through process tank" means a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. The term "flow-through process tank" does not include a tank used for the storage of materials prior to their introduction into the production process or for the storage of finished products or byproducts from the production process.

"Free product" means a mobile regulated substance that is present as a nonaqueous phase liquid (e.g. liquid not dissolved in water).

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Grant request" means the total amount requested on the application for a grant from the UST grant account, plus any cost to the Department for conducting a feasibility determination under R18-12-710, in conjunction with the application

"Groundwater" means water in an aquifer as defined at A.R.S. § 49-201.

"Hazard Index" for soil, surface water, and groundwater contamination, has the definition at R18-7-201.

"Hazard quotient" for soil, surface water, and groundwater contamination, has the definition at R18-7-201.

"Hazardous substance UST system" means an UST system that contains a hazardous substance as defined in A.R.S. § 49-1001(14)(b) or any mixture of such substance and petroleum, which is not a petroleum UST system.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, or No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils for heating purposes.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"IFCI" means the International Fire Code Institute.

"Implementing agency" means, with respect to Article 3 only, the Arizona Department of Environmental Quality for UST systems subject to the jurisdiction of the state of Arizona, or the EPA for other jurisdictions or, in the case of a state with a program approved under 42 U.S.C. 6991 (or pursuant to a memorandum of agreement with EPA), the designated state or local agency responsible for carrying out an approved UST program.

"Indian country" means, under 18 U.S.C. 1151, all of the following:

All land within the limits of an Indian reservation under the jurisdiction of the United States government which is also located within the borders of this state, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation.

All dependent Indian communities within the borders of the state whether within the original or subsequently acquired territory of the state.

All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

"Induration" means the consolidation of a rock or rock material by the action of heat, pressure, or the introduction of some cementing material not commonly contained in the original mass. Induration also means the hardening of a soil horizon by chemical action to form hardpan (caliche).

"Installation" means the placement and preparation for placement of any UST system or UST system part into an excavation zone. Installation is considered to have commenced if both of the following exist:

The owner and operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the UST system.

The owner and operator has begun a continuous on-site physical construction or installation program or has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction at the site or installation of the UST system to be completed within a reasonable time.

"Institutional control" for soil, surface water, and groundwater contamination, has the definition at R18-7-201.

"Legal defense cost" means, with respect to Article 3 only, any expense that an owner or operator, or provider of financial assurance incurs in defending against claims or actions brought under any of the following circumstances:

By EPA or a state to require corrective action or to recover the costs of corrective action;

By or on behalf of a 3rd party for bodily injury or property damage caused by an accidental release; or

By any person to enforce the terms of a financial assurance mechanism.

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"Local government" means a county, city, town, school district, water and aqueduct management district, irrigation district, power district, electrical district, agricultural improvement district, drainage and flood control district, tax levying public improvement district, local government public transportation system, and any political subdivision defined in A.R.S. § 49-1001.

"LUST" means leaking UST.

"LUST case" means all of the documentation related to a specific LUST number, which is maintained on file by the Department.

"LUST number" means the unique number assigned to a release by the Department after the notification requirements of A.R.S. § 49-1004(A) are met.

"LUST site" means the UST facility from which a release has occurred.

"Maintenance" means those actions necessary to ensure the proper working condition of an UST system or equipment used in corrective actions.

"Motor vehicle fuel," for the purpose of Article 4 only, has the definition at A.R.S. § 28-101.

"Nature of the regulated substance" means the chemical and physical properties of the regulated substance stored in the UST, and any changes to the chemical and physical properties upon or after release.

"Nature of the release" means the known or estimated means by which the contents of the UST was dispersed from the UST system into the surrounding media, and the conditions of the UST system and media at the time of release.

"New tank system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation has commenced after December 22, 1988.

"Noncommercial purposes" means, with respect to motor fuel, not for resale.

"On-site control" means, for the purpose of Article 8 only, being at the location where tank service is being performed while tank service is performed.

"On the premises where stored" means, with respect to A.R.S. § 49-1001(18)(b) only, a single parcel of property or any contiguous or adjacent parcels of property.

"Operational life" means the period beginning when installation of the tank system has begun and ending when the tank system is properly closed under R18-12-271 through R18-12-274.

"Overfill" means a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of a regulated substance to the environment.

"Owner identification number" means the unique number assigned to the owner of an UST by the Department after the initial notification requirements of A.R.S. § 49-1002 are satisfied, or after a refund claim is submitted and approved pursuant to R18-12-409.

"Petroleum marketing facility" means a facility at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

"Petroleum marketing firm" means a firm owning a petroleum marketing facility. Firms owning other types of facilities with USTs as well as petroleum marketing facilities are considered to be petroleum marketing firms.

"Petroleum UST system" means an UST system that contains or contained petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. These systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Pipe" or "Piping" means a hollow cylinder or tubular conduit that is constructed of non-earthen materials.

"Pipeline facility" means new or existing pipe rights-of-way and any associated equipment, gathering lines, facilities, or buildings.

"Point of compliance" means the geographic location at which the concentration of the chemical of concern is to be at or below the risk-based corrective action standard determined to be protective of public health and the environment.

"Point of exposure" for soil, surface water, and groundwater contamination, has the definition at R18-7-201 for "exposure point."

"Property damage" means physical injury to, destruction of, or contamination of tangible property, including all resulting loss of use of that property; or loss of use of tangible property that is not physically injured, destroyed, or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible.

"Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an UST through one of the mechanisms listed in R18-12-306 through R18-12-312 or R18-12-316, including a guarantor, insurer, risk retention group, surety, or issuer of a letter of credit.

"RCRA" means the Resource Conservation and Recovery Act in 42 U.S.C. 6924 (u)

"Receptor" means persons, enclosed structures, subsurface utilities, waters of the state, or water supply wells and wellhead protection areas.

"Release confirmation" means free product discovery, or reported laboratory analytical results of samples collected and analyzed in accordance with the sampling requirements of R18-12-280 and A.A.C. Title 9, Chapter 14, Article 6 which indicates a release of a regulated substance from the UST system.

"Release confirmation date" means the date that an owner or operator first confirms the release, or the date that the owner or operator is informed of a release confirmation made by another person.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

"Remediation" for soil, surface water, and groundwater contamination, has the definition at A.R.S. § 49-151, except that "soil, surface water and groundwater" is substituted for "soil" where it appears in that Section.

"Repair" means to restore a tank or UST system component that has caused or may cause a release of regulated substance from the UST system.

"Report of work" means a written summary of corrective action services performed.

"Reserved and designated funds" means those funds of a nonprofit, not-for profit, or local government entity which, by action of the governing authority of the entity, by the direction of the donor, or by statutory or constitutional limitations, may not be used for conducting UST upgrades, replacements, or removals, or for installing UST leak detection systems, or conducting corrective actions, including payment for expedited review of related documents by the Department, on releases of regulated substances.

"Residential tank" means an UST system located on property used primarily for dwelling purposes.

"Retrofit" means to add to an UST system, equipment or parts that were not originally included or installed as part of the UST system.

"Risk characterization" means the qualitative and quantitative determination of combined risks to receptors from individual chemicals of concern and exposure pathways, and the associated uncertainties.

"Routinely contains product" or "routinely contains regulated substance" means the part of an UST system which is designed to contain regulated substances and includes all internal areas of the tank and all internal areas of the piping, excluding only the vent piping.

"SARA" means the Superfund Amendments and Reauthorization Act of 1986, P.L. 99-499.

"Septic tank" means a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Site location map" means a representation by means of signs and symbols on a planar surface, at an established scale, of the streets, wells, and general use of the land for properties within at least one-quarter mile of the facility boundaries, with the direction of orientation indicated.

"Site plan" means a representation by means of signs and symbols on a planar surface, at an established scale, of the physical features (natural, artificial, or both) of the facility and surrounding area necessary to meet the requirements under which the site plan is prepared, with the direction of orientation indicated.

"Site Vicinity Map" means a representation by means of signs and symbols on a planar surface, at an established scale, of the natural and artificial physical features, used in the exposure assessment, that occur within at least 500 feet of the facility boundaries, with the direction of orientation indicated.

"Solid Waste Disposal Act" for the purposes of this Chapter means the "federal act" as defined by A.R.S. § 49-921.

"Source area" means either the location of the release from an UST, the location of free product, the location of the highest soil and groundwater concentration of chemicals of concern, or the location of a soil concentration of chemicals of concern which may continue to impact groundwater or surface water.

"Spill" means the loss of regulated substance during the transfer of a regulated substance to an UST system.

"Storage facility" means, for the purpose of Article 4 only, the common, identifiable, location at which deliveries of regulated substances are made to an UST, an above ground storage tank, or to a group of underground and above ground storage tanks, and to which the Department has assigned a single facility identification number.

"Storm-water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or of domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Substantial business relationship" means the extent of a business relationship necessary under Arizona law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.

"Substantial governmental relationship" means the extent of a governmental relationship necessary under Arizona law to make an added guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract under R18-12-316 is issued "incident to that relationship" if it arises from a clear commonality of interest in the event of an UST release such as coterminous boundaries, overlapping constituencies, common ground water aquifer, or other relationship other than monetary compensation that provides a motivation for the guarantor to provide a guarantee.

"Supplier" means, for the purpose of Article 4 only, with respect to collection of the UST excise tax, a person who is described by either A.R.S. § 28-6001(A) or (B). The term "supplier" includes a distributor, as defined in A.R.S. § 28-5601, who is required to be licensed by A.R.S. Title 28, Chapter 16, Article 1.

"Supplier identification number" means, for the purpose of Article 4 only, the unique number assigned to the supplier by the Department of Transportation for the purpose of administering the motor vehicle fuel tax under A.R.S. Title 28, Chapter 16, Article 1.

"Surface impoundment" means a natural topographic depression, artificial excavation, or diked area formed primarily of earthen materials, but which may be lined with artificial materials, that is not an injection well.

"Surface water" has the definition at R18-11-101.

"Surficial soil" means any soil occurring between the current surface elevation and extending to that depth for which reasonably foreseeable construction activities may excavate and relocate soils to surface elevation, and any stockpiles generated from soils of any depth.

"Suspected release discovery date" means the day an owner or operator first has reason to believe, through direct discovery or being informed by another person, that a suspected release exists.

"Suspected release notification date" means the day the Department informs an owner or operator, as evidenced by the return receipt, that a UST may be the source of a release.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties.

"Tax" means, for the purpose of Article 4 only, the excise tax on the operation of USTs levied by A.R.S. Title 49, Chapter 6, Article 2.

"Taxpayer" means, for the purpose of Article 4 only, the owner or operator of an UST who pays the tax.

"Tester" means a person who performs tightness tests on UST systems, or on any portion of an UST system including tanks, piping, or leak detection systems.

"Underground area" means an underground room, such as a basement, cellar, shaft, or vault that provides enough space for physical inspection of the exterior of the tank, situated on or above the surface of the floor.

"Underground storage tank" has the definition at A.R.S. § 49-1001.

"Unreserved and undesignated funds" means those funds that are not reserved or designated funds and can be transferred at will by the governing authority to other funds.

"Upgrade" means the addition to or retrofit of an UST system or UST system parts, under R18-12-221, to improve the ability to prevent release of a regulated substance.

"UST" means an underground storage tank as defined at A.R.S. § 49-1001.

"UST grant account" or "grant account" means the account designated under A.R.S. § 49-1071.

"UST regulatory program" means the program established by and described in A.R.S. Title 49, Chapter 6 and the rules promulgated under that program.

"UST system" or "tank system" means an UST, connected underground piping, impact valve and connected underground ancillary equipment and containment system, if any.

"Vadose zone" has the definition at A.R.S. § 49-201.

"Volatile regulated substance" means any regulated substance that generally has the following chemical characteristics: a vapor pressure of greater than 0.5 mmHg at 20° C, a Henry's Law Constant of greater than 1 x 10^{-5} atm m^3/mol, and which has a boiling point of less than 250° - 300° C.

"Wastewater treatment tank" means a tank system that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3). Amended effective May 23, 1996 (Supp. 96-2). Amended effective July 30, 1996 (Supp. 96-3). Amended effective December 6, 1996 (Supp. 96-4). Amended by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-102. Applicability

A. Owners and operators. As provided in A.R.S. § 49-1016(A), the responsibilities of this Chapter, unless indicated otherwise, are imposed on persons who are the owner or the operator of an UST. If the owner and operator of an UST are separate persons, only one person is required to discharge any specific responsibility. Both persons are liable in the event of noncompliance.

B. Persons in possession or control of property. The requirements of this Chapter are applicable to a person acting under the provisions of A.R.S. § 49-1016(C).

C. No supersedence. Nothing in this Chapter supersedes the requirements of the following:
1. A court of competent jurisdiction,
2. An order of the Director under A.R.S. § 49-1013.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3). Amended effective May 23, 1996 (Supp. 96-2). Amended effective July 30, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-103. Repealed

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3). Amended effective May 23, 1996 (Supp. 96-2). Repealed effective July 30, 1990 (Supp. 96-3).

ARTICLE 2. TECHNICAL REQUIREMENTS

R18-12-210. Applicability

A. The requirements of this Article apply to all owners and operators of an UST system, except as otherwise provided in subsections (B) through (D).

B. The following UST systems are excluded from the requirements of this Article:
1. Any UST system holding hazardous wastes which are listed or identified under Subtitle C of the Solid Waste Disposal Act, or a mixture of such hazardous waste and other regulated substances;
2. Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act;
3. Equipment or machinery that contains regulated substances solely for operational purposes such as hydraulic lift tanks and electrical equipment tanks;
4. Any UST system with a capacity of 110 gallons or less;
5. Any UST system that contains a de minimis concentration of regulated substances;
6. Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

C. Only R18-12-101, R18-12-210, R18-12-211, and the provisions of A.R.S. § 49-1005 and the rules promulgated thereunder apply to the following types of UST systems:
1. Wastewater treatment tank systems other than those specified in subsection (B)(2);
2. Any UST systems containing radioactive material that are regulated under the Atomic Energy Act of 1954, 42 U.S.C. §§ 2011 et seq.;
3. Any UST system that is part of an emergency generator system at nuclear power generation facilities regulated by the Nuclear Regulatory Commission under 10 CFR 50 Appendix A;
4. Airport hydrant fuel distribution systems;
5. UST systems with field-constructed tanks.

D. R18-12-240 through R18-12-245 do not apply to any UST system that stores fuel solely for use by emergency power generators.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-211. Prohibition for Certain UST Systems

A. A person shall not install an UST system listed in R18-12-210(C) for the purpose of storing regulated substances unless the UST system, whether of single-wall or double-wall construction, meets all of the following requirements:
1. The UST system will prevent releases due to corrosion or structural failure for the operational life of the UST system;
2. The UST system is cathodically protected against corrosion, constructed of noncorrodible material, steel clad with a noncorrodible material, or designed in a manner to prevent the release or threatened release of any stored substance;
3. The UST system is constructed or lined with material that is compatible with the stored substance.

B. Notwithstanding subsection (A), an UST system without corrosion protection may be installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operational life. Owners and operators shall maintain records that demonstrate compliance with the requirements of this subsection for the remaining operational life of the UST system.

C. Compliance with the corrosion protection provisions of this Section shall be determined in accordance with the performance standards set forth in R18-12-281(A).

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-212. Reserved

R18-12-213. Reserved

R18-12-214. Reserved

R18-12-215. Reserved

R18-12-216. Reserved

R18-12-217. Reserved

R18-12-218. Reserved

R18-12-219. Reserved

R18-12-220. Performance Standards for New UST Systems

A. Owners and operators of a new UST system shall meet the requirements described in this Section in order to prevent releases due to structural failure, corrosion, or spills and overfills for as long as the UST system is used to store regulated substances.

B. A tank shall be properly designed and constructed, and any portion underground that routinely contains a regulated substance shall be protected from corrosion according to one of the following methods:

1. The tank is constructed of fiberglass-reinforced plastic. Compliance with this subsection shall be determined in accordance with the performance standards set forth in R18-12-281(B);
2. The tank is constructed of steel and is cathodically protected, in accordance with the performance standards of R18-12-281(C), by all of the following:
   a. The tank is coated with a suitable dielectric material;
   b. The field-installed cathodic protection systems are designed by a corrosion expert;
   c. The impressed current systems, if used, are designed to allow determination of current operating status as required in R18-12-231(C);
   d. The cathodic protection systems are operated and maintained in accordance with R18-12-231.
3. The tank is constructed of a steel-fiberglass-reinforced-plastic composite. Compliance with this subsection shall be determined in accordance with the performance standard set forth in R18-12-281(D).
4. The tank is constructed of metal without additional corrosion protection measures, and both of the following conditions are met:
   a. The tank is installed at a site that is determined by a corrosion expert not to be corrosive enough to cause it to have a release due to corrosion during its operating life;
   b. Owners and operators maintain records that demonstrate compliance with the requirements of subsection (B)(4)(a) for the remaining operational life of the tank.
5. The tank construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements of subsections (B)(1) through (4).

C. The piping that routinely contains regulated substances and is in contact with the ground shall be properly designed, constructed, and protected from corrosion according to one of the following methods:

1. The piping is constructed of fiberglass-reinforced plastic. Compliance with this subsection shall be determined in accordance with the performance standard set forth in R18-12-281(E).
2. The piping is constructed of steel and in meeting the performance standards of R18-12-281(F) is cathodically protected according to all of the following:
   a. The piping is coated with a suitable dielectric material;
   b. Field-installed cathodic protection systems are designed by a corrosion expert;
   c. Impressed current systems, if used, are designed to allow determination of current operating status as required in R18-12-231(C);
   d. Cathodic protection systems are operated and maintained in accordance with R18-12-231.
3. The piping is constructed of metal without additional corrosion protection measures, and all of the following requirements are satisfied:
   a. The piping is installed at a site that is determined by a corrosion expert to not be corrosive enough to cause it to have a release due to corrosion during its operating life;
   b. The piping meets the performance standards of R18-12-281(G);
   c. Owners and operators maintain records that demonstrate compliance with the requirements of this subsection for the remaining life of the piping.
4. The piping construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in subsections (C)(1) through (3).

D. Except as provided in subsection (D)(3), owners and operators shall use both of the following spill and overfill prevention equipment systems to prevent spilling and overfilling associated with transfer of a regulated substance to the UST system:

1. Spill prevention equipment that will prevent release of a regulated substance to the environment when the transfer hose is detached from the fill pipe;
2. Overfill prevention equipment that will do one or more of the following:
   a. Automatically shut off flow into the tank when the tank is no more than 95% full;
   b. Alert the transfer operator when the tank is no more than 90% full by restricting the flow into the tank or triggering a high-level alarm that can be heard at the point of transfer;
   c. Restrict flow 30 minutes prior to overfilling, alert the operator with a high level alarm that can be heard at the point of transfer one minute before overfilling, or automatically shut off flow into the tank so that none of the fittings located on top of the tank are exposed to a regulated substance due to overfilling.
3. Owners and operators are not required to use the spill and overfill prevention equipment specified in subsections (D)(1) and (2) if either of the following conditions is met:

a. Alternative equipment is used that is determined by the Department to be no less protective of human health and the environment than the equipment specified in subsections (D)(1) or (2);
b. The tank is filled by transfers of no more than 25 gallons at one time.

E. All tanks and piping shall meet both of the following requirements:
1. Be properly installed in accordance with the manufacturer's instructions;
2. Be installed according to the performance standards set forth in R18-12-281(H).

F. Owners shall ensure that one or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with subsection (E):
1. The installer has been certified by the tank and piping manufacturers,
2. The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation,
3. The installation has been inspected and approved by the Department,
4. All work listed in the manufacturer's installation checklists has been completed,
5. Owners and operators have complied with another method for ensuring compliance with subsection (E) that is determined by the Department to be no less protective of human health and the environment.

G. Owners shall provide a certification of compliance on the UST Notification Form in accordance with R18-12-222(D) and shall ensure that a certification statement in accordance with the applicable requirements of R18-12-222(E) is signed by the installer on the Notification Form prior to submission to the Department.

H. If an UST system is installed or modified to meet the requirements of this Section, owners shall notify the Department in accordance with R18-12-222(F)(2) within 30 days of the date that the UST system is brought into operation or modified.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-221. Upgrading of Existing UST Systems

A. Not later than December 22, 1998, each existing UST system shall comply with one of the following requirements:
1. New UST system performance standards under R18-12-220;
2. The upgrading requirements described in subsections (B) through (E);
3. Closure requirements, including applicable requirements for release reporting and corrective action, under R18-12-270 through R18-12-274.

B. A steel tank shall be upgraded to meet one of the following requirements:
1. A tank may be upgraded by internal lining if both of the following conditions are met:
   a. The internal lining is installed in accordance with the requirements of R18-12-233;
   b. Within 10 years after the internal lining is installed, and every five years thereafter, the lined tank is internally inspected and found to be structurally sound with the lining still performing in accordance with original design specifications.
2. A tank may be upgraded by cathodic protection if the cathodic protection system meets the requirements of R18-12-220(B)(2)(b) through (d), and the integrity of the tank is ensured by using at least one of the following methods:
   a. The tank is internally inspected and assessed to ensure that it is structurally sound and free of corrosion holes prior to installing the cathodic protection system;
   b. The tank has been installed for less than 10 years and is monitored monthly for releases in accordance with R18-12-243(D) through (H);
   c. The tank has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests that meet the requirements of R18-12-243(C). The 1st tightness test shall be conducted prior to installing the cathodic protection system. The 2nd tightness test shall be conducted between three and six months following the 1st operation of the cathodic protection system;
   d. The tank is assessed for corrosion holes by a method that is determined by the Department to prevent releases in a manner that is no less protective of human health and the environment than the methods described in subsections (B)(2)(a) through (c).
3. A tank may be upgraded by both internal lining and cathodic protection if both of the following requirements are met:
   a. The lining is installed in accordance with the requirements of R18-12-233,
   b. The cathodic protection system meets the requirements of R18-12-220(B)(2)(b) through (d).

C. Metal piping that routinely contains regulated substances and is in contact with the ground shall be cathodically protected in accordance with the applicable requirements of R18-12-220(C)(2)(b) through (d).

D. Any upgrading by use of corrosion protection described in this Section shall be accomplished in accordance with the performance standards set forth in R18-12-281(I).

E. To prevent spilling and overfilling associated with the transfer of a regulated substance to the UST system, all existing UST systems shall comply with new UST system spill and overfill prevention equipment requirements specified in R18-12-220(D).

F. Owners shall ensure that one or more of the following methods of certification, testing, or inspection is used to demonstrate compliance with the requirements of this Section by providing a certification of compliance on the UST Notification Form in accordance with R18-12-222(D):
1. The installer has been certified by the equipment or system manufacturers;
2. The installation has been inspected and certified by a registered professional engineer with education and experience in UST system installation;
3. All work listed in the manufacturer's installation checklists has been completed;
4. The owner has complied with another method for ensuring compliance with the requirements of this Section that is determined by the Department to be no less protective of human health and the environment.

G. Owners and operators shall ensure that a certification statement in accordance with the applicable requirements of R18-12-222(E) is signed by the installer on the Notification Form prior to submission to the Department.

H. If an UST system is upgraded in accordance with this Section, owners and operators shall notify the Department in accordance with R18-12-222(F)(2) within 30 days of the date that the UST system is upgraded.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-222. Notification Requirements

A. An owner of an UST system shall comply with the notification requirements of this Section in accordance with those described in A.R.S. § 49-1002.

B. An owner shall submit the most current and complete information on each UST system at each facility utilizing the Departmental form titled "Notification for Underground Storage Tanks" ("Notification Form"). An owner shall submit a separate Notification Form to the Department for each facility which is owned. Submitted information shall include all of the following for each UST system:

1. Type of notification specifying one of the following:
   a. New facility,
   b. Amendment of previous Notification Form,
   c. Closure.
2. The name and mailing address of the owner of the UST system;
3. Facility street address and the associated county assessor book, map, and parcel;
4. Type of owner, specifying whether government, commercial, or private;
5. Whether the UST system is located within Indian country;
6. Facility type;
7. The name and mailing address of the operator of the UST system;
8. Compliance with financial responsibility requirements in accordance with R18-12-300 through R18-12-325, and the mechanism or mechanisms used to demonstrate compliance;
9. Facility map including tanks and associated piping in addition to major structures;
10. Status of each UST system as one of the following:
    a. Currently in use,
    b. Temporarily out of use,
    c. Permanently out of use.
11. Date of the UST system installation and date the UST system was 1st brought into operation;
12. Estimated total capacity of the tank;
13. Material of tank construction and method of corrosion protection for each UST system;
14. Date of repair, if tank has been repaired;
15. Material of piping construction and method of corrosion protection for each UST system;
16. Date of repair, if piping has been repaired;
17. Type of piping delivery system;
18. Methods of leak detection currently in use for tank and piping;
19. Whether the UST system is connected to an emergency generator;
20. Substance currently or last stored in the UST system in greatest quantity by volume;
21. If the substance currently or last stored in the UST system is a hazardous substance, identification of the CERCLA name or Chemical Abstracts Service number;
22. If the substance currently or last stored in the UST system is a mixture of substances, identification of the constituents of the mixture.

C. In addition to the information required in subsection (B), if an UST system is permanently closed, temporarily closed, or if a change-in-service has occurred, an owner shall provide all of the following:

1. The estimated date the UST system was last used, and the estimated date the UST system was permanently closed;
2. Identification of the UST system as one of the following:
   a. Removed from the ground,
   b. Closed in the ground and filled with inert solid materials and a description of those materials,
   c. Completed change-in-service and a description of current use,
   d. Temporarily closed,
   e. Temporarily closed with a request for extension of temporary closure.
3. Whether an UST site assessment was completed;
4. Whether there was evidence of a leak.

D. An owner shall certify under penalty of law that the owner has personally examined and is familiar with the information submitted in the Notification Form and all attached documents, and that based either on direct knowledge or on inquiry of those individuals immediately responsible for obtaining the information, the owner believes that the submitted information is true, accurate, and complete. For a new or upgraded UST system, this certification shall include compliance with all the following requirements:

1. Installation of tanks and piping under R18-12-220(E);
2. Cathodic protection of steel tanks and piping under R18-12-220(B) and (C), or R18-12-221(B) through (D);
3. Spill and overfill protection under R18-12-220(D) or R18-12-221(E);
4. Release detection under R18-12-240 through R18-12-245;
5. Financial responsibility under R18-12-300 through R18-12-325.

E. An owner of a new or upgraded UST system shall ensure that the installer certifies on the Notification Form that to the best information and belief of the installer the items set forth in subsections (D)(1) through (4) are true.

F. Any request for an extension of temporary closure shall be made in accordance with R18-12-270. In addition, an owner of an UST system shall notify the Department within 30 days after any one of the following occurs:

1. A change in the operator of the UST system;
2. A replacement or upgrade of any portion of the UST system in accordance with R18-12-220 or R18-12-221;
3. A change in leak detection status in accordance with R18-12-240 through R18-12-245;
4. Temporary closure in accordance with R18-12-270;
5. Return to active service following temporary closure in accordance with R18-12-270(D);
6. Permanent closure or change-in-service in accordance with R18-12-271 through R18-12-274;
7. A change in the contents of the UST system among the categories of regulated substances described in subsections (B)(20), (21), or (22);
8. A change in status of financial responsibility in accordance with R18-12-300 through R18-12-325.

G. In the case of a change of ownership of an UST system, one of the following shall occur:

1. When a vendor sells an UST system or a tank for use as an UST after May 8, 1986, the vendor shall inform the purchaser, on a form prescribed by the Department, that the Resource Conservation and Recovery Act (RCRA) requires owners of certain underground storage tanks to notify the Department within 30 days of the existence of the tank.
2. When a person transfers ownership of an UST system, both of the following shall occur:
   a. The transferor shall inform the Department in writing of the transfer of its interest in the UST system including the name and address of the transferor and transferee, name and telephone number of the contact person for the transferee and effective date of

the transfer. In addition, the transferor shall advise the transferee of the notification requirements of this Section, utilizing the form referenced in subsection (G)(1);

b. The transferee shall submit to the Department a completed Notification Form within 30 days of the transfer of interest.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-223. Reserved

R18-12-224. Reserved

R18-12-225. Reserved

R18-12-226. Reserved

R18-12-227. Reserved

R18-12-228. Reserved

R18-12-229. Reserved

R18-12-230. Spill and Overfill Control

A. Owners and operators shall ensure that releases due to spilling or overfilling do not occur. Owners and operators shall ensure, before the transfer is made, that the volume then available in the tank is greater than the volume of regulated substance to be transferred to the tank. Owners and operators also shall ensure that the operation is monitored constantly to prevent overfilling and spilling. Compliance with this subsection shall be determined in accordance with the performance standards set forth in R18-12-281(J).

B. Owners and operators shall report, investigate, and clean up any spills and overfills in accordance with A.R.S. §§ 49-1004 and 49-1005 and the rules promulgated thereunder.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-231. Operation and Maintenance of Corrosion Protection

A. A corrosion protection system shall be operated and maintained to continuously provide corrosion protection to the metal components of an UST system which are subject to the corrosion protection requirements of R18-12-220 and R18-12-221 and to piping which routinely contains regulated substances and is in contact with the ground.

B. An UST system equipped with cathodic protection systems shall be inspected for proper operation by a cathodic protection tester. Owners and operators shall ensure compliance with both of the following requirements:

1. A cathodic protection system shall be tested within six months of installation and at least every three years thereafter,
2. The criteria that are used to determine that cathodic protection is adequate as required by this Section shall be in accordance with the performance standards set forth in R18-12-281(K).

C. An UST system with an impressed current cathodic protection system, in addition to meeting the requirements of subsections (A) and (B) shall be inspected every 60 days to ensure the equipment is operating in accordance with its design specifications.

D. For an UST system using cathodic protection, records of the operation of the cathodic protection shall be maintained in accordance with R18-12-234 to demonstrate compliance with the performance standards in this Section. These records shall provide the following:

1. The results of testing from the last two inspections required by subsection (B),
2. The results of the last three inspections required by subsection (C).

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-232. Compatibility

Owners and operators shall use an UST system made of or lined with materials that are compatible with the substance stored in the UST system. Compliance with this Section shall be determined in accordance with the performance standards set forth in R18-12-281(L).

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-233. Repairs Allowed

A. Owners and operators of an UST system shall ensure that repairs will prevent releases due to structural failure or corrosion as long as the UST system is used to store regulated substances. The repairs shall meet the following requirements:

1. Repairs to an UST system shall be properly conducted in accordance with performance standards set forth in R18-12-281(M);
2. Repairs to a fiberglass-reinforced plastic tank shall be made by the manufacturer's authorized representative or in accordance with a performance standard set forth in R18-12-281(N);
3. Any metal pipe sections and fittings that have released a regulated substance as a result of corrosion or other damage shall be replaced. Fiberglass pipe and fittings shall be repaired in accordance with the manufacturer's specifications or in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory.

B. Repaired tanks and piping shall be tightness tested in accordance with the specifications described in R18-12-243(C) and R18-12-244(B) within 30 days following the date of the completion of the repair unless one of the following procedures is employed:

1. The repaired tank is internally inspected in accordance with a code of practice developed by a nationally recognized association or an independent testing laboratory;
2. The repaired portion of the UST system is monitored monthly for releases in accordance with a method specified in R18-12-243(D) through (H);
3. Another test method is used that is determined by the Department to be no less protective of human health and the environment than those otherwise listed in subsections (B)(1) and (2).

C. Within six months following the repair of any cathodically protected UST system, the cathodic protection system shall be tested in accordance with R18-12-231(B) and (C) to ensure that it is operating properly.

D. Owners and operators of an UST system shall maintain records of each repair for the remaining operational life of the UST system that demonstrate compliance with the requirements of this Section.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-234. Reporting and Recordkeeping

A. Owners shall submit notification for all UST systems in accordance with R18-12-222. Additionally, owners and operators shall submit the following information to the Department:
1. Reports of all releases including suspected releases in accordance with A.R.S. § 49-1004 and the rules promulgated thereunder;
2. Corrective actions planned or taken including initial investigation and abatement measures in accordance with A.R.S. § 49-1005;
3. The information required in accordance with R18-12-271 before starting permanent closure or change-in-service;
4. The site assessment report in accordance with R18-12-271(D).

B. Owners and operators shall maintain all of the following information:
1. A corrosion expert's analysis of site corrosion potential if corrosion protection equipment is not used in accordance with R18-12-211(B), R18-12-220(B)(4) and R18-12-220(C)(3);
2. Documentation of operation of corrosion protection equipment in accordance with R18-12-231;
3. Documentation of UST system repairs in accordance with R18-12-233(D);
4. Documentation of compliance with release detection requirements in accordance with R18-12-245.

C. Owners and operators shall keep the records required by subsection (B) either:
1. At the UST site and immediately available for inspection by the Department,
2. At a readily available alternative site and be provided for inspection to the Department upon request.

Historical Note

Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-235. Reserved

R18-12-236. Reserved

R18-12-237. Reserved

R18-12-238. Reserved

R18-12-239. Reserved

R18-12-240. General Release Detection Requirements for All UST Systems

A. Owners and operators of a new or existing UST system shall provide a method, or combination of methods, of release detection that meets all of the following requirements:
1. Can detect a release from any portion of the tank and the connected underground piping that routinely contains a regulated substance;
2. Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition;
3. Meets the performance requirements in R18-12-243 or R18-12-244, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer;
4. Is capable of detecting the leak rate or quantity specified for that method in R18-12-243 or R18-12-244 with a Probability of Detection (PD) of a release of 0.95 and a Probability of False Alarm (PFA) of 0.05 by the date shown in subsections (A)(4)(a) or (b) unless the method was permanently installed prior to that date:
   a. Manual Tank Gauging, in accordance with R18-12-243(B); Tank Tightness Testing, in accordance with R18-12-243(C); Automatic Tank Gauging, in accordance with R18-12-243(D); Line Tightness Testing, in accordance with R18-12-244(B): December 22, 1990;
   b. Automatic Line Leak Detectors, in accordance with R18-12-244(A): September 22, 1991.

B. When a release detection method operated in accordance with the performance standards in R18-12-243 and R18-12-244 indicates a release may have occurred, owners and operators shall inform the Department in accordance with A.R.S. § 49-1004.

C. Owners and operators of an UST system shall comply with the release detection requirements of this Section and R18-12-241 through R18-12-245 by December 22 of the year listed in the following table:

SCHEDULE FOR PHASE-IN OF RELEASE DETECTION

Year system installed	When release detection is required (by December 22 of the year indicated) 1989	1990	1991	1992	1993
Before 1965 or date unknown	RD	P			
1965-69..		P/RD			
1970-74..		P	RD		
1975-79..		P		RD	
1980-88..		P			RD

New tanks (after December 22, 1988) immediately upon installation.

P = shall begin release detection for all pressurized piping as defined in R18-12-241(B)(1).

RD = shall begin release detection for tanks and suction piping in accordance with R18-12-241(A), (B)(2), and R18-12-242.

D. Any existing UST system that cannot apply a method of release detection that complies with the requirements of this Section and R18-12-241 through R18-12-245 shall complete the closure procedures in R18-12-270 through R18-12-274 by the date on which release detection is required for that UST system under subsection (C).

Historical Note

Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-241. Release Detection for Petroleum UST Systems

A. Owners and operators of petroleum UST systems shall provide release detection for tanks. Tanks shall be monitored for releases at least once every month using one of the methods listed in R18-12-243(D) through (H) except that:
1. An UST system that meets the new or upgraded UST system performance standards of R18-12-220 or R18-12-221, and the monthly inventory control requirements of R18-12-243(A) or the manual tank gauging requirements of R18-12-243(B), may use tank tightness testing conducted in accordance with R18-12-243(C) at least every five years until December 22, 1998, or until 10 years after the tank is installed or upgraded, whichever is later. The initial tank tightness test shall be performed on or before

the compliance date for the tank in accordance with R18-12-240(C);

2. An UST system that does not meet the performance standards in R18-12-220 or R18-12-221 may use annual tank tightness testing conducted in accordance with R18-12-243(C) in conjunction with either monthly inventory control conducted in accordance with R18-12-243(A) or the manual tank gauging requirements of R18-12-243(B) until December 22, 1998, when the tank shall be upgraded under R18-12-221 or permanently closed under R18-12-271 through R18-12-274. The initial tank tightness test shall be performed on or before the compliance date for the tank as set forth in R18-12-240(C);
3. A tank with a capacity of 550 gallons or less may use manual tank gauging conducted in accordance with R18-12-243(B) as a sole method for leak detection.

B. Owners and operators of petroleum UST systems shall provide release detection for underground piping. Underground piping that routinely contains petroleum shall be monitored for releases in a manner that meets one of the following requirements:

1. Underground piping that conveys petroleum under pressure shall meet both of the following requirements:
   a. Be equipped with an automatic line leak detector which meets the requirements of R18-12-244(A);
   b. Have an annual line tightness test conducted in accordance with R18-12-244(B) or have monthly monitoring conducted in accordance with R18-12-244(C).
2. Except as otherwise provided in this subsection, underground piping that conveys petroleum under suction shall either have a line tightness test conducted at least every three years in accordance with R18-12-244(B), or use a monthly monitoring method conducted in accordance with R18-12-244(C). Release detection is not required for suction piping that is designed and constructed to meet all of the following standards:
   a. The below-grade piping operates at less than atmospheric pressure;
   b. The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released;
   c. Only one check valve is included in each suction line;
   d. The check valve is located directly below and as close as practical to the suction pump and is capable of being inspected;
   e. A method is provided that allows compliance with the requirements of subsections (B)(2)(a) through (d) to be readily determined.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-242. Release Detection for Hazardous Substance UST Systems

A. Owners and operators of existing hazardous substance UST systems shall provide release detection that meets the requirements for petroleum UST systems in R18-12-241. By December 22, 1998, each existing hazardous substance UST system shall be upgraded to meet the release detection requirements for new hazardous substance UST systems in subsection (B).

B. Owners and operators of a new hazardous substance UST system shall provide release detection which meets the following requirements:

1. Secondary containment systems shall be designed, constructed, and installed to meet all of the following requirements:
   a. Contain regulated substances released from the UST system until they are detected and removed,
   b. Prevent the release of regulated substances to the environment at any time during the operational life of the UST system,
   c. Be checked for evidence of a release at least monthly.
2. Double-walled tanks shall be designed, constructed, and installed to meet both of the following requirements:
   a. Contain a release from any portion of the inner tank within the outer wall,
   b. Detect the failure of the inner wall.
3. External liners, including vaults, shall be designed, constructed, and installed to meet all of the following requirements:
   a. Contain 100% of the capacity of the largest UST system within its boundary,
   b. Prevent the interference of precipitation or groundwater intrusion with the ability to contain or detect a release of regulated substances,
   c. Surround the tank completely so that it is capable of preventing lateral as well as vertical migration of regulated substances.
4. Underground piping shall be equipped with secondary containment that satisfies the requirements of subsection (B)(1) and underground piping that conveys regulated substances under pressure shall be equipped with an automatic line leak detector in accordance with R18-12-244(A).
5. Methods of release detection other than those described in subsections (B)(1) through (4) may be used if owners and operators meet all of the following requirements:
   a. Demonstrate to the Department that an alternate method can detect a release of the stored substance as effectively as any of the methods allowed in R18-12-243(B) through (H) can detect a release of petroleum;
   b. Provide information to the Department on effective corrective action technologies, health risks, and chemical and physical properties of the stored substance, and the characteristics of the UST site;
   c. Obtain approval from the Department in writing to use the alternate release detection method before the installation and operation of the UST system.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-243. Methods of Release Detection for Tanks

A. If inventory control is used to meet the requirements of R18-12-241, it shall be used in conjunction with tank tightness testing described in subsection (C). Inventory control shall be conducted monthly in accordance with R18-12-281(O) to detect a release of at least 1.0% of flow-through plus 130 gallons on a monthly basis in the following manner:

1. Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the tank are recorded each operating day;
2. The equipment used is capable of measuring the level of the regulated substance over the full range of the tank's vertical dimension to the nearest 1/8 of an inch;
3. The regulated substance inputs are reconciled with delivery receipts by measurement of the tank inventory volume before and after delivery;

4. Measurements, as well as deliveries of regulated substances, are made through a drop tube that extends to within one foot of the tank bottom;
5. Dispensing of regulated substances is metered and recorded within the standards established by the entity with jurisdiction. If no standards are established, dispensing which meets an accuracy of six cubic inches for every five gallons of regulated substance withdrawn shall be used;
6. The measurement of any water level in the bottom of the tank is made to the nearest 1/8 of an inch at least once a month;
7. Inventory control shall not be utilized as the sole method of release detection.

B. Manual tank gauging used to meet the requirements of R18-12-241 shall meet all of the following requirements:

1. Tank liquid level measurements are taken on a weekly basis at the beginning and ending of a period of at least 36 hours during which no liquid is added to or removed from the UST system;
2. Level measurements are based on an average of two consecutive stick readings at both the beginning and ending of the period;
3. The equipment used is capable of measuring the level of regulated substance over the full range of the tank's vertical dimension to the nearest 1/8 of an inch;
4. A leak is suspected and subject to the requirements of A.R.S. § 49-1004 and the rules promulgated thereunder if the statistical variation between beginning and ending measurements exceeds the weekly or monthly standards in the following table:

Nominal Tank Capacity	Weekly Standard (1 test)	Monthly Standard (average of 4 tests)
550 gallons or less	10 gallons	5 gallons
551-1,000 gallons	13 gallons	7 gallons
1,001-2,000 gallons	26 gallons	13 gallons

5. Manual tank gauging may be used as the sole method of release detection only for tanks of 550 gallons or less capacity. Manual tank gauging may be used in place of inventory control in subsection (A), for tanks of 551 to 2,000 gallons. This method shall not be used to meet the requirements of R18-12-241 for tanks of greater than 2,000 gallons capacity.

C. If tank tightness testing is used to meet the requirements of R18-12-241, it shall be used in conjunction with the inventory control method described in subsection (A) or the manual tank gauging method described in subsection (B) and shall be capable of detecting a 0.1 gallon per hour leak rate from any portion of the tank that routinely contains regulated substance while accounting for the effects of thermal expansion or contraction of the regulated substance, vapor pockets, tank deformation, evaporation or condensation, and the location of the water table.

D. Equipment for automatic tank gauging that tests for the loss of regulated substance and conducts inventory control used to meet the requirements of R18-12-241 shall meet both of the following requirements:

1. The automatic regulated substance level monitor test shall be performed at least monthly and be capable of detecting a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains regulated substance,
2. Inventory control shall be conducted in accordance with the requirements of subsection (A).

E. Testing or monitoring for vapors within the soil gas of the excavation zone used to meet the requirements of R18-12-241 shall be conducted at least monthly and shall meet all of the following requirements:

1. The characteristics of the site are assessed to ensure that the leak detection method will comply with the requirements in subsections (E)(2) through (8);
2. The leak detection system is constructed and designed so that the number and positioning of monitoring wells will detect releases into the excavation zone from any portion of the system which routinely contains a regulated substance within 30 days from the date of commencement of a release;
3. The stored regulated substance, or a tracer compound placed in the UST system, will produce a vapor level that is detectable by the monitoring devices in the monitoring wells within 30 days from the date of commencement of a release from the UST system;
4. The materials used as backfill will allow diffusion of vapors from releases into the excavation area such that a release is detected within 30 days from the date of commencement of a release from the UST system;
5. The groundwater, rainfall, soil moisture, or other known interferences will not render the measurement of vapors by the monitoring device inoperable so that a release could go undetected by the monitoring devices in the monitoring wells for more than 30 days from the date of commencement of the release from the UST system;
6. The level of background contamination at the site will not interfere with the method used to detect releases from the tank system;
7. The vapor monitors are designed and operated to detect any significant increase in concentration above a documented background level of the regulated substance stored in the tank system, a component or components of that substance, or a volatile tracer compound placed in the tank system;
8. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

F. Testing or monitoring for liquids on the groundwater used to meet the requirements of R18-12-241 shall be conducted monthly and meet the following requirements:

1. The characteristics of the site are assessed to ensure that the leak detection method will comply with the requirements in subsections (F)(2) through (9);
2. The leak detection system shall be constructed and designed so that the number and positioning of monitoring wells or devices will detect releases into the excavation zone from any portion of the system which routinely contains a regulated substance;
3. The regulated substance stored is immiscible in water and has a specific gravity of less than 1;
4. Groundwater is never more than 20 feet from the ground surface and the hydraulic conductivity of the material between the UST system and the monitoring wells or devices is not less than 0.01 centimeters per second;
5. Monitoring wells or devices intercept the excavation zone or are as close to it as is technically feasible;
6. The slotted portion of the monitoring well casing shall be designed to prevent migration of natural soils or filter pack into the well and to allow entry of regulated substance on the water table into the well under both high and low ground-water conditions;
7. The continuous monitoring devices or manual methods used can detect the presence of at least 1/8 of an inch of

free product on top of the groundwater in the monitoring wells;

8. Monitoring wells shall be sealed from the ground surface to the top of the filter pack;
9. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.

G. Interstitial monitoring between the UST system and a secondary barrier immediately around or beneath it which is used to meet the requirements of R18-12-241 shall be conducted at least monthly and shall be designed, constructed and installed to detect a leak from any portion of the UST system that routinely contains a regulated substance, and shall meet one of the following requirements:

1. For double-walled UST systems, the sampling or testing method shall be able to detect a release through the inner wall in any portion of the UST system that routinely contains a regulated substance.
2. For UST systems with a secondary barrier within the excavation zone, characteristics of the site and system components shall be designed and constructed to detect a release between the UST system and the secondary barrier and shall meet all of the following requirements:
   a. The secondary barrier around or beneath the UST system shall be constructed of synthetic materials which are sufficiently thick and impermeable to prevent structural weakening of the secondary barrier as a result of contact with any released regulated substance. The rate of permeability shall not exceed 10^{-6} centimeters per second for the regulated substance stored. In addition, the secondary barrier shall be capable of directing any release to the monitoring point and permit its detection;
   b. The barrier is compatible with the regulated substance stored so that a release from the UST system will not cause a deterioration of the barrier allowing a release to pass through undetected;
   c. For cathodically protected UST systems, the secondary barrier shall be installed so that it does not interfere with the proper operation of the cathodic protection system;
   d. The groundwater, soil moisture, or rainfall will not render the testing or sampling method used inoperative so that a release could go undetected for more than 30 days;
   e. The characteristics of the UST site are assessed to ensure that the secondary barrier is always above the groundwater and not in a 25-year flood plain, unless the barrier and monitoring designs are for use under such conditions;
   f. Monitoring wells are clearly marked and secured to avoid unauthorized access and tampering.
3. For tanks with an internally fitted liner, an automated device shall be able to detect a release between the inner wall of the tank and the liner, and the liner shall be compatible with the substance stored.

H. Any other type of release detection method, or combination of methods, may be used to meet the requirements of R18-12-241 if all of the following requirements are met:

1. The monitoring is conducted at least monthly;
2. The Department determines that the method meets either of the following requirements:
   a. The method can detect a 0.2 gallon per hour leak rate or a release of 150 gallons within 30 days with probability of detection and probability of false alarm in accordance with R18-12-240(A)(4);
   b. Owners and operators can demonstrate that the method is able to detect a release as effectively as any of the methods allowed in subsections (C) through (G). In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability with which it can be detected. If the method is approved, owners and operators shall comply with any conditions imposed by the Department on its use to ensure the protection of human health and the environment.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-244. Methods of Release Detection for Piping

A. An automatic line leak detection method for piping used to meet the requirements of R18-12-241 which alerts the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm may be used only if it detects leaks of three gallons per hour, at 10 pounds per square inch line pressure within one hour. An annual test of the operation of the leak detector shall be conducted in accordance with the manufacturer's requirements;

B. A periodic line tightness test of piping may be used as a method of release detection for piping for the purpose of meeting the requirements of R18-12-241 only if it can detect a 0.1 gallon per hour leak rate, at 1½ times the operating pressure.

C. Any of the applicable tank methods described in R18-12-243(E) through (H) may be used as a method of release detection for piping for the purpose of meeting the requirements of R18-12-241 if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-245. Release Detection Recordkeeping

A. Owners and operators shall maintain records in accordance with R18-12-234 demonstrating compliance with all applicable requirements of R18-12-240 through R18-12-244. The following records shall be maintained for the operational life of the release detection system or five years from the date indicated below, whichever is the shorter time period:

1. All written performance claims pertaining to any release detection system used, and the manner in which these claims have been justified or tested by the equipment manufacturer or the installer. The retention period shall start at the date of installation;
2. Written documentation of all calibration, maintenance, and repair of release detection equipment permanently located on-site. The retention period shall start at the date of completion of the servicing work.

B. Any schedules of required calibration and maintenance provided by the release detection equipment manufacturer shall be maintained for at least five years from the date of installation.

C. Except as otherwise provided in subsection (D), the results of any sampling or testing shall be maintained for at least five years from the date of receipt by owners and operators of the results.

D. The results of tank tightness testing conducted in accordance with R18-12-243(C) shall be retained from the date of receipt by owners and operators of the results until the next test is conducted and the results of that test are received.

E. Results of any monitoring shall be maintained for at least one year from the date of receipt by owners and operators of the monitoring results.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-246. Reserved

R18-12-247. Reserved
R18-12-248. Reserved

R18-12-249. Reserved

R18-12-250. Applicability and Scope

A. Release reporting and corrective action. Except for a release from an UST system excluded by R18-12-210(B), or for the corrective action requirements of R18-12-260 through R18-12-264.01, for a release subject to Subtitle C corrective action requirements in Section 3004(u) of RCRA, as amended, R18-12-250 through R18-12-264.01 apply to a release or suspected release discovered:
1. On or after the effective date of this Section; or
2. Before the effective date of this Section, but only for those sections of R18-12-250 through R18-12-264.01 with required activities not initiated by the effective date of this Section.

B. No supersedence. Nothing in R18-12-250 through R18-12-264.01 supersedes any of the following:
1. Immediate reporting to the National Response Center and to the Division of Emergency Services within the Arizona Department of Emergency and Military Affairs, under CERCLA, and SARA Title III;
2. A CAP submitted to the Department under 40 CFR 280.66 before the effective date of this Section and subsequently approved; and
3. A work plan under the UST Assurance Fund preapproval requirements of Article 6 of this Chapter submitted to the Department before the effective date of this Section and subsequently approved.

Historical Note
New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-251. Suspected Release

A. 24 hour notification. An owner or operator shall notify the Department, within 24 hours after discovery of a suspected release, except for either:
1. A spill or overfill of 25 gallons or less of petroleum or a hazardous substance that is less than its reportable quantity under CERCLA, contained and cleaned up within 24 hours, or
2. The conditions described in A.R.S. § 49-1001(16)(b) or (c)(i) exist for 24 hours or less.

B. 24 hour notification content. If known, the notification shall identify the:
1. Individual notifying the Department;
2. UST involved and the reason for notifying the Department;
3. Facility involved;
4. Owner and the operator of the UST facility; and
5. Investigation and containment actions taken as of the date of the notification.

C. Requirement to investigate suspected releases. Within 90 calendar days from the suspected release discovery date or the suspected release notification date, whichever is earlier, an owner or operator shall complete the investigation requirements of this subsection and confirm whether the suspected release is a release. The investigation shall include:
1. Tightness tests of the tank and all connected piping meeting the requirements of R18-12-243(C) and R18-12-244(B). Further investigation is required if the results of the tightness test indicate that the system is either not tight or contaminated media is the basis for suspecting a release.
2. If further investigation is required under subsection (1), a site check meeting the requirements of this subsection must be performed. An owner or operator shall measure for the presence of a release where contamination is likely to be present and shall consider the:
   a. Nature of the regulated substance;
   b. Type of initial alarm or cause for suspicion;
   c. Type of backfill;
   d. Depth to groundwater; and
   e. Conditions of the regulated substance and the site in identifying the presence and source of the release.

D. Release Confirmation. If a release is confirmed, the owner or operator shall notify the Department as required by R18-12-260(A), cease further compliance with this Section, and perform corrective actions under R18-12-260 through R18-12-264.01.

E. 14 day report. The owner or operator shall submit a written status report, on a form provided by the Department, within 14 calendar days after the suspected release discovery date or the suspected release notification date, whichever is earlier. If the suspected release is confirmed to be a release within the 14 day period, the 14 day report is satisfied when the report required by R18-12-260(C) is submitted. If known on the date the 14 day report is submitted, an owner or operator shall identify the:
1. UST that is the source of the suspected release;
2. Nature of the suspected release;
3. Regulated substance suspected to be released; and
4. Initial response to the suspected release.

F. 90 day report. If the suspected release is not confirmed to be a release the owner or operator shall submit a written report, on a form provided by the Department, within 90 calendar days after the suspected release discovery date or suspected release notification date, whichever is earlier, showing that the investigation has been completed and a release does not exist. Unless previously submitted, the 90 day report shall identify the:
1. UST suspected to be the source of the release;
2. Nature of the suspected release;
3. Regulated substance suspected to be released;
4. Response to the suspected release;
5. Repair, recalibration, or replacement of a monthly monitoring device described in R18-12-243(D) through (H) or R18-12-244(C), and any repair or replacement of faulty UST system equipment that may have been the cause of the suspected release;
6. Results of any tightness test conducted under subsection (C)(1);
7. Person, if the site check described in subsection (C)(2) was not performed, having direct knowledge of the circumstances of the suspected release who observed contaminated media during the discovery or investigation.
8. Laboratory analytical results on samples collected during the site check described in subsection (C)(2); and
9. Site plan showing the location of the suspected release and site check sample collection locations.

G. Investigation of suspected releases required by the Department. If the Department becomes aware of an on- or off-site impact of a regulated substance, the owner or operator shall be

notified and may be required, based on an assessment of site specific information, to perform an investigation under subsection (C). If an investigation is required, the Department shall describe the type of impact and the rationale for its decision that the UST system may be the source of the impact.

Historical Note
New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-252. Reserved

R18-12-253. Reserved

R18-12-254. Reserved

R18-12-255. Reserved

R18-12-256. Reserved

R18-12-257. Reserved

R18-12-258. Reserved

R18-12-259. Reserved

R18-12-260. Release Notification, and Reporting

A. 24 hour release notification. An owner or operator shall notify the Department within 24 hours after the release confirmation date of the following:
1. A release of a regulated substance;
2. A spill or overfill of petroleum that results in a release exceeding 25 gallons, or causes a sheen on nearby surface water that is reportable to the National Response Center under 40 CFR 110;
3. A spill or overfill of petroleum resulting in a release of 25 gallons or less that is not contained and cleaned up within 24 hours;
4. A spill or overfill of a hazardous substance that equals or exceeds its reportable quantity under CERCLA; and
5. A spill or overfill of a hazardous substance that is less than the reportable quantity under CERCLA, not contained and cleaned up within 24 hours.

B. Release notification information. If known on the date that the 24 hour notification is submitted, an owner or operator shall notify the Department under subsection (A) and shall include the:
1. Individual providing notification;
2. UST involved and the reason for confirming the release;
3. Facility involved;
4. Owner and operator of the facility involved; and
5. Investigations, containment, and corrective actions taken as of the date and time of the notice.

C. 14 day report. An owner or operator shall submit a report, on a form provided by the Department, within 14 calendar days after the release confirmation date. The report shall include:
1. The nature of the release, and the regulated substance and the estimated quantity released;
2. The elapsed time over which the release occurred;
3. A copy of the results of any tightness test, meeting the requirements of R18-12-243(C) or R18-12-244(B), performed to confirm the release;
4. Laboratory analytical results of samples demonstrating the release confirmation; and
5. The initial response and corrective actions taken as of the date of the report and anticipated actions to be taken within the first 90 calendar days after the release confirmation date.

D. UST system modifications. An owner or operator shall repair, upgrade, or close the UST system, that is the source of the release, as required under this Article and the owner shall notify the Department as required by R18-12-222.

Historical Note
New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-261. Initial Response, Abatement, and Site Characterization

A. 24 hour initial response. An owner or operator shall begin response actions within 24 hours of the release confirmation date to prevent any further release, and identify and mitigate fire, explosion, and vapor hazards.

B. 60 day initial abatement. An owner or operator shall begin the following initial abatement measures as soon as practicable, but not later than 60 calendar days of the release confirmation date:
1. Removal of as much of the regulated substance from the UST system as is necessary to prevent a further release;
2. Visually inspect for and mitigate further migration of any aboveground and exposed below ground release into surrounding soils and surface water;
3. Continue to monitor and mitigate any fire and safety hazards posed by vapors or free product; and
4. Investigate for the possible presence of free product and, if found, initiate the requirements of R18-12-261.02.

C. Initial site characterization required. An owner or operator shall develop, from readily available sources, initial site characterization information on site-specific geology, hydrology, receptors, potential sources of the contamination, artificial pathways for contaminant migration, and occupancies of the facility and surrounding area. Information on any discovered free product shall be gathered and a site check, meeting the requirements of R18-12-251(C)(2), shall be performed, unless conducted as part of the investigation of a suspected release.

D. 90 day report. An owner or operator shall submit an initial site characterization report to the Department, on a Department provided form, within 90 calendar days after the release confirmation date. If known, the report shall include the:
1. Nature of the release, the regulated substance released, and the estimated quantity of the release;
2. The estimated time period when the release occurred;
3. Initial response and abatement actions described in subsections (A) and (B), and any corrective actions taken as of the date of the submission;
4. Estimated or known site-specific lithology, depth to bedrock, and groundwater depth, flow direction, and quality. The date and source of the information shall be included;
5. Location, use, and identification of all wells registered with Arizona Department of Water Resources, and other wells on and within one-quarter mile of the facility;
6. Location and type of receptors, other than wells, on and within one-quarter mile of the facility;
7. Current occupancy and use of the facility and properties immediately adjacent to the facility;
8. Data on known sewer and utility lines, basements, and other artificial subsurface structures on and immediately adjacent to the facility;
9. Copies of any report of any tightness test meeting the requirements under R18-12-243(C) or R18-12-244(B), performed during the investigation of the suspected release;

10. Laboratory analytical results of samples analyzed and received as of the date of the report;
11. Site plan showing the location of the facility property boundaries, release, sample collections for samples with laboratory analytical results submitted with the report, and identified receptors;
12. Current LUST site classification form described in R18-12-261.01(E); and
13. Information on any free product discovered under R18-12-261.02.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-261.01. LUST Site Classification

A. LUST site analysis. An owner or operator shall determine a LUST site classification by analyzing current and future threats to public health and the environment based on site-specific information known at the time of the determination.

B. LUST site classification factors. The owner or operator shall determine any threats to public health and the environment by addressing the following:
1. Presence and levels of vapors;
2. Presence of free product;
3. Extent of contamination;
4. Type and location of receptor;
5. Impacts and reasonably foreseeable impacts to current and future receptors; and
6. Estimated time between the date of the analysis and the impact to receptors.

C. LUST site classification. An owner or operator shall select a classification for the LUST site from one of the following, based on the analysis performed under subsection (B):
1. Classification 1: immediate threats;
2. Classification 2: short term threats from impacts that are reasonably foreseeable at or within two years;
3. Classification 3: long term threats from impacts that are reasonably foreseeable after two years; or
4. Classification 4: contamination exists, but no demonstrable long term threat has been identified, or information indicates the site cannot be otherwise classified under this subsection.

D. LUST site classification form submission. An owner or operator shall submit to the Department the LUST site classification form described in subsection (E) as required by R18-12-260 through R18-12-264.01, and when LUST site conditions indicate the classification has changed, or if contamination has migrated, or is anticipated to migrate, to a property where the owner or operator does not have access.

E. LUST site classification form contents. An owner or operator shall submit the LUST site classification, on a Department provided form, that includes the following information:
1. Date of preparation;
2. LUST number assigned to the release that is the subject of the classification;
3. The status of corrective action activities on the date that the classification form is submitted;
4. The regulated substance and the estimated volume (in gallons) released, the UST identification number from the notification form described in R18-12-222, the component of the UST where the release occurred, and whether the release is a spill or overfill;
5. The factors considered in determining the LUST site classification described in subsection (B);
6. The distance between the identified contamination and each receptor;
7. The estimated time, from the date on the form until impact to a receptor; and
8. The classification of the LUST site.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-261.02. Free Product

A. Free product investigation. An owner or operator shall investigate for free product if site specific information indicates the potential existence for free product, and if discovered, determine its extent.

B. Free product removal. If free product is discovered, the owner or operator shall:
1. Begin removal as soon as practicable;
2. Remove free product in a manner minimizing the spread of contamination using recovery and disposal techniques based on site-specific hydrologic, geologic, and demographic conditions;
3. Comply with local, state, and federal laws or regulations when treating, discharging, or disposing recovery byproducts;
4. Use abatement of free product migration as a minimum objective for the design of the free product removal system; and
5. Handle any flammable product in a safe and competent manner to prevent fire and explosion.

C. Forty-five day free product report. If free product is discovered, the owner or operator shall submit a status report, on a Department provided form, within 45 calendar days of free product discovery and with subsequent reports required by the Department. The status report shall contain the following information known at the time of the report:
1. The estimated quantity, type, extent and thickness of free product observed or measured;
2. A description of free product removal measures taken;
3. A description of any discharge that will take place during the recovery operation and where this discharge will be located; and
4. A description of the type of treatment applied to and the effluent quality expected from any discharge.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-262. LUST Site Investigation

A. Requirement to investigate. An owner or operator shall investigate a release at and from a LUST site to determine the full extent of the release of regulated substances and shall:
1. Determine the full extent of contamination;
2. Identify physical, natural, and artificial features at or surrounding the LUST site that are current or potential pathways for contamination migration;
3. Identify current or potential receptors; and
4. Obtain any additional data necessary to determine site-specific corrective action standards and to justify the selection of remedial alternatives to be used in responses to contaminated soil, surface water, and groundwater.

B. Completion of investigation activities. The owner or operator shall complete the investigation activities described in subsection (A) and submit the report described in subsection (D) within a time established by the Department.

C. Determining the full extent of contamination. The owner or operator shall determine, within each contaminated medium, the full extent, location, and distribution of concentrations of each chemical of concern stored in the UST over its opera-

tional life. The full extent of contamination shall be determined upon receipt of laboratory analytical results delineating the vertical and lateral extent of the contamination.

D. LUST site characterization report. An owner or operator shall submit a report of the information developed during the investigation required in subsection (A), in format approved by the Department. The report shall be submitted within the time established in subsection (B). The report submitted under this subsection and an on-site investigation report submitted under A.R.S. § 49-1053 shall contain the following minimum information, except that an on-site investigation report is not required to include the extent of contamination beyond the facility property boundaries:
1. A site history summary;
2. Information on bedrock, if encountered during the investigation;
3. The hydrologic characteristics and uses of groundwater and surface water of the local area;
4. A concise description of factors considered in determining the full extent of contamination;
5. A concise summary of the results of the investigation including a conceptual site model;
6. A site vicinity map, site location map and a site plan;
7. A tabulation of all field screening and laboratory analytical results and water level data acquired during the investigation;
8. Laboratory sample analytical and associated quality assurance and quality control reports and chain-of-custody forms;
9. A tabulation of all wells registered with the Arizona Department of Water Resources, and other wells located within one-quarter mile of the facility property boundary;
10. The lithologic logs for all subsurface investigations; and
11. The as-built construction diagram of each well installed as part of this investigation.

E. Conditions for approval of the site characterization report. The Department shall approve the site characterization report if the Department determines it meets the requirements of this Section and A.R.S. § 49-1005, and contains the information required by subsection (D), or the Department has enough information to make an informed decision to approve the report.

F. Notice of decision. The Department will determine if the conditions in subsection (E) are or are not satisfied and shall either approve or not approve the report and notify an owner or operator in writing. The notification shall include any conditions on which the approval or non-approval is based and an explanation of the process for resolving disagreements under A.R.S. § 49-1091.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-263. Remedial Response

A. Remedial response not required. An owner or operator shall comply with R18-12-263.03 for LUST case closure if a remedial response is not required for any chemical of concern, when contaminant concentrations in each contaminated medium, at the point of compliance, are documented to be at or below the corrective action standard under R18-12-263.01(A)(1).

B. Remedial response required. The owner or operator shall remediate contamination at and from the LUST site as required by this Section. Remediation activities shall continue until:
1. Contaminant concentration of any chemical of concern, in each contaminated medium, at the point of compliance, is documented to be at or below the corrective action standard determined in R18-12-263.01; and
2. The requirements for LUST case closure in R18-12-263.03 are completed and approved by the Department.

C. Remedial responses that may require a CAP. The Department may request the owner or operator, or the owner or operator may voluntarily submit a CAP, meeting the requirements of this Section, any time after submission of the report in R18-12-261(D). If a CAP is requested, it shall be submitted within 120 calendar days of the owner or operator's receipt of the request, or a longer period of time established by the Department. The Department may request a CAP based on the following:
1. Soil or groundwater contamination extends, or has potential to extend, off the facility property and the LUST site is classification 3 in R18-12-261.01(C);
2. Free product extends off the facility property; and
3. Site-specific conditions indicate a potential level of threat to public health and the environment that is equal to or exceeds the threat in subsections (1) and (2). In determining the extent of threat to public health and the environment, the Department shall consider:
   a. The nature of the regulated substance and the location, volume, and distribution of concentrations of chemicals of concern in soil, surface water, and groundwater;
   b. The presence and location of known receptors potentially impacted by the release; and
   c. The presence of complete exposure pathways.

D. Remedial responses that require a CAP. At any time after Department approval of the report described in R18-12-261(D), the Department shall request that the owner or operator submit a CAP meeting the requirements of this Section within 120 calendar days, or a longer period of time established by the Department, if any of the following exist:
1. The LUST site is classification 1 or 2 in R18-12-261.01(C);
2. The owner or operator proposes a corrective action standard for groundwater or surface water under a Tier 2 or Tier 3 evaluation, described in R18-12-263.01;
3. The owner or operator proposes a corrective action standard for soil under a Tier 3 evaluation, and the point of compliance extends beyond a facility property boundary; or
4. The intended response or remediation technology involves discharge of a pollutant either directly to an aquifer or the land surface or the vadose zone. For purposes of this subsection, the term pollutant has the definition at A.R.S. § 49-201.

E. Determination of remediation response. The owner or operator shall choose a remediation technology based on the corrective action requirements of A.R.S. § 49-1005(D) and (E), and the following:
1. Local, state, and federal requirements associated with the technology;
2. Reduction of toxicity, mobility, or volume;
3. Long-term effectiveness and permanence;
4. Short-term effectiveness; and
5. Ability to implement the corrective action standard for each chemical of concern, in each contaminated medium, including considering the results presented in the site characterization report, ease of initiation, operation and maintenance of the technology, and public response to

any contamination residual to or resulting from the technology.

F. On-site derived waste. Nothing in this subsection shall supersede more stringent requirements for storage, treatment, or disposal of on-site derived waste imposed by local, state or federal governments. An owner or operator meeting the requirements of this subsection is deemed to have met the exemption provisions in the definition of solid waste at A.R.S. § 49-701.01 for petroleum contaminated soil stored or treated on-site. The owner or operator shall prevent and remedy hazards posed by derived waste resulting from investigation or response activities under this Article and shall.

1. Contain on-site derived waste in a manner preventing the migration of contaminants into subsurface soil, surface water, or groundwater throughout the time the derived waste remains on-site, and shall:
   a. Restrict access to contaminated areas by unauthorized persons; and
   b. Maintain the integrity of any containment system during placement, storage, treatment, or removal of the derived waste;
2. Label on-site derived waste stored or treated in stockpiles, drums, tanks, or other vessels in a manner consistent with A.R.S. Title 49, Chapter 4, Article 9 and the rules made under that Article; and
3. Treat on-site derived waste to the applicable corrective action standard in R18-12-263.01 if the derived waste is to be returned to the on-site subsurface.

G. Periodic site status report. After approval of the site characterization report, the owner or operator shall submit a site status report, on a form provided by the Department, based on site-specific conditions. The report shall be submitted as requested by the Department, or by the time requested in the CAP under R18-12-263.02. The owner or operator shall continue to submit a site status report until the Department approves a LUST case closure report under R18-12-263.03(F)(1). The report shall:

1. Identify each type of remedial corrective action technology being employed;
2. Provide the date each remedial corrective action technology became operational;
3. Provide the results of monitoring and laboratory analysis of collected samples for each contaminated medium received since the last report was submitted to the Department;
4. Provide a site plan that shows the current location of the components of any installed remediation technology including monitoring and sample collection locations for data collected and reported in subsection (G)(3);
5. Estimate the amount of time that must pass until response activities, including remediation and verification monitoring, will demonstrate that the concentration of each chemical of concern is at or below the corrective action standard determined for that chemical of concern in the specific contaminated medium; and
6. Provide the current LUST site classification form described in R18-12-261.01(E).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-263.01. Risk-based Corrective Action Standards

A. Conducting risk-based tier evaluation and proposing the applicable corrective action standard. The owner or operator shall propose and document, as described in subsection (B), each applicable risk-based corrective action standard, using the procedures of this subsection. The owner or operator shall ensure that each corrective action standard meets the corrective action requirements of A.R.S. § 49-1005(D) and (E), and is consistent with soil remediation standards and restrictions on property use in A.R.S. Title 49, Chapter 1, Article 4 and the rules made under each. In determining the proposed corrective action standard, the owner or operator shall first perform a Tier 1 evaluation. The owner or operator may subsequently perform progressively more site-specific, risk-based tier evaluations (Tier 2 or Tier 3) after considering the comparative differences in input parameters, the cost effectiveness in conducting both the additional evaluation and remediation to the next tier corrective action standard, and the cumulative estimate of risk to public health and the environment.

1. For a Tier 1 evaluation, the owner or operator shall:
   a. Base assumptions on conservative scenarios where all potential receptors are exposed to the maximum concentration of each chemical of concern in each contaminated medium detected in contamination at and from the LUST site;
   b. Assume that all exposure pathways are complete;
   c. Use the assumed point of exposure at the source or the location of the maximum concentration as the point of compliance;
   d. Compare the maximum concentration of each chemical of concern in each contaminated medium at the point of compliance with the applicable Tier 1 corrective action standard in subsections (A)(1)(e) through (A)(1)(j);
   e. For soil, use the applicable corrective action standard in R18-7-203(A)(1) and (2) and (B);
   f. For surface water, use the applicable corrective action standard in R18-11-112 or Appendix A (18 A.A.C. 11, Article 1);
   g. For groundwater, use the applicable corrective action standard in R18-11-406;
   h. For contaminated groundwater that is demonstrated to discharge or potentially discharge to surface water, use the applicable corrective action standard in R18-11-108, R18-11-112, or Appendix A (18 A.A.C. 11, Article 1);
   i. If a receptor is or has the potential to be impacted, for those chemicals of concern in soil or surface water with no numeric standard established in rule or statute, use a corrective action standard consistent with R18-7-206 or R18-11-108, as applicable, using updated, peer-reviewed scientific data applying those equations and methodologies used to formulate the numeric standards established in R18-7-203(A)(2) or Appendix A (18 A.A.C. 11, Article 1), or for leachability and protection of the environment, a concentration determined on the basis of methods approved by the Department; and
   j. If a public or private water supply well is or has the potential to be impacted, for those chemicals of concern in groundwater with no numeric water quality standard established in rule or statute, use a corrective action standard consistent with R18-11-405, using updated, peer-reviewed scientific data applying those equations and methodologies used to formulate the numeric standards established in R18-11-406.
2. For a Tier 2 evaluation the owner or operator shall:
   a. Apply site-specific data to the same equations used to develop the Tier 1 corrective action standard, or, in the case of volatilization from subsurface soil, a

Department-approved equation that accounts for the depth of contamination;

b. For those chemicals of concern with no numeric standard established in statute or rule, use a corrective action standard based on updated, peer-reviewed scientific data, and provided through environmental regulatory agencies and scientific organizations;

c. Use Department-approved values for equation parameters, if the values are different than those used in Tier 1 or not obtained through site-specific data;

d. Eliminate exposure pathways that are incomplete due to site-specific conditions, or institutional or engineering controls, from continued evaluation in this tier;

e. Use as the point of compliance a location between the source and the point of exposure for the nearest known or potential on-site receptor, or the nearest downgradient facility property boundary, whichever is the nearest to the source;

f. Use representative concentrations of chemicals of concern that are the lesser of the 95% upper confidence level or maximum concentration in the contaminated medium at the point of compliance;

g. Use as the Tier 2 corrective action standard, a concentration determined under subsections (A)(2)(a) through (A)(2)(c), R18-7-206, R18-11-108, and R18-11-405; and

h. Compare the representative concentration of each chemical of concern, in each contaminated medium, at the point of compliance with the proposed Tier 2 corrective action standard, to determine if remediation is required.

3. For a Tier 3 evaluation the owner or operator shall:

a. Apply more site-specific data than required in the development of Tier 2 corrective action standards in alternative and more sophisticated equations appropriate to site-specific conditions. The owner or operator shall use equations and methodology of general consensus within the scientific community that is published in peer-reviewed professional journals, publications of standards, and other literature;

b. Use the nearest known or potential receptor as the point of exposure;

c. Use as the point of compliance the point of exposure or some location between the source and the point of exposure, regardless of the facility boundary;

d. Use representative concentrations that are the actual or modeled concentrations in the medium of concern at the point of compliance;

e. Use as the Tier 3 corrective action standard a concentration consistent with subsections (A)(3)(a) through (A)(3)(d);

f. Compare the representative concentration of each chemical of concern in each contaminated medium at the point of compliance with the Tier 3 corrective action standard to determine if remediation is required; and

g. Choose the remedial action upon completion of the Tier 3 evaluation that will result in concentrations of chemicals of concern presenting a hazard index no greater than 1 and a cumulative excess lifetime cancer risk between 1×10^{-6} and 1×10^{-4}.

4. All risk-based corrective action standards proposed under the tier evaluations in subsections (A)(1) through (3) are based on achieving similar levels of protection of public health and the environment. For Tier 2 and Tier 3 evaluations, a cumulative risk assessment is warranted if multiple pathways of exposure are present, or reasonably anticipated, and one or more of the following conditions impacts or may impact current or future receptors:

a. More than 10 carcinogens are identified;

b. More than one class A carcinogen is identified;

c. Any non-carcinogen has a hazard quotient exceeding 1/nth of the hazard index of 1, where n represents the total number of non-carcinogens identified; or

d. More than 10 non-carcinogens are identified.

B. Documentation of tier evaluation. The owner or operator shall document each tier evaluation performed in response to contaminated soil, surface water and groundwater. The owner or operator shall prepare each evaluation using a Department provided format and complying with this subsection.

1. For a Tier 1 evaluation the owner or operator shall provide the following information:

a. Each chemical of concern detected in the contamination at and from the LUST site;

b. Each medium contaminated, identified as soil, surface water, or groundwater;

c. The maximum concentration of each chemical of concern for each contaminated medium.

d. The current and future use of the facility and surrounding properties;

e. Each receptor evaluated;

f. The Tier 1 corrective action standard for each chemical of concern for each contaminated medium; and

g. The proposed corrective actions for each chemical of concern that exceeds the Tier 1 corrective action standard.

2. For the Tier 2 evaluation the owner or operator shall provide the following information:

a. Each chemical of concern evaluated;

b. Each medium contaminated, identified as surficial soil, subsurface soil, surface water, or groundwater;

c. The representative concentration of each chemical of concern for each contaminated medium;

d. A detailed description of the current and future use of the facility and surrounding properties;

e. The point of exposure;

f. The point of compliance;

g. The revised conceptual site model;

h. Parameters necessary to utilize the leachability equations, if groundwater is or may be impacted by the release, published in federal and state peer-reviewed professional journals, publications of standards, or other literature accepted within the scientific community;

i. Identification and justification for alternate assumptions or site-specific information used in place of the default assumptions of the Tier 1 evaluation, or used in a Department-approved model under subsection (A)(2) for subsurface volatilization;

j. Any supporting calculations and reference citations used in the development of Tier 2 corrective action standards;.

k. A table of the calculated Tier 2 corrective action standards;

l. A description of any institutional or engineering controls to be implemented; and

m. Proposed corrective actions for chemical of concerns that exceeds a Tier 2 corrective action standard.

3. For the Tier 3 evaluation the owner or operator shall provide the following information:
   a. Each chemical of concern evaluated;
   b. Each medium contaminated, identified as surficial soil, subsurface soil, surface water, or groundwater;
   c. The representative concentration of each chemical of concern for each contaminated medium;
   d. A detailed description of the current and future use of the facility and surrounding properties, including a demonstration of the current and foreseeable use of groundwater within one-quarter mile of the source;
   e. The point of exposure;
   f. The point of compliance;
   g. A revised conceptual site model;
   h. Identification and justification for alternate assumptions, methodology or site-specific information used in place of the assumptions for the Tier 2 evaluation;
   i. Any supporting calculations and reference citations used in the development of Tier 3 corrective action standards;
   j. Results and validation of modeling for soil leaching, groundwater plume migration, and surface water hydrology;
   k. A table of the calculated Tier 3 corrective action standards;
   l. Risk characterization, and cumulative lifetime excess cancer risk, and hazard index for current and potential receptors for all chemicals of concern in all contaminated media;
   m. A description of any institutional or engineering controls to be implemented; and
   n. Proposed corrective actions for chemical of concern that exceeds a Tier 3 corrective action standard.
4. When a Tier 2 or Tier 3 evaluation relies on the use of an institutional or engineering control in establishing a corrective action standard, the owner or operator shall:
   a. Demonstrate that the institutional or engineering control is legal, and technically and administratively feasible;
   b. Record any institutional or engineering control with the deed for all properties impacted by the release;
   c. Communicate the terms of the institutional or engineering control to current and future lessees of the property, and to those parties with rights of access to the property; and
   d. Ensure that the terms of the institutional or engineering control be maintained throughout any future property transactions until concentrations of chemicals of concern meet a corrective action standard at the point of compliance that does not rely on the use of the institutional or engineering control. For the institutional or engineering control to be implemented, the owner or operator shall prepare an institutional or engineering control that includes the following, as appropriate:
      i. Chemicals of concern;
      ii. Representative concentrations of the chemicals of concern;
      iii. Any Tier 2 or Tier 3 corrective action standard;
      iv. Exposure pathways that are eliminated;
      v. Reduction in magnitude or duration of exposures to chemicals of concern;
      vi. The cumulative excess lifetime cancer risk and hazard index if determined under subsection (A)(4);
      vii. A brief description of the institutional or engineering control;
      viii. Any activity or use limitation for the site;
      ix. The person responsible for maintaining the institutional or engineering control;
      x. Performance standards;
      xi. Operation and maintenance plans;
      xii. Provisions for removal of the institutional or engineering control if the owner or operator demonstrates that representative concentrations of chemicals of concern comply with an alternative corrective action standard not dependent on the institutional or engineering control; and
      xiii. A statement of intent that informs lessees and parties with rights of access of the terms described in subsections (B)(4)(d)(i) through (xii).

C. Submittal of tier evaluation. The owner or operator shall submit to the Department the tier evaluation conducted under subsection (A) and provide, in accordance with subsection (B), the following:
1. Documentation of the Tier 1 evaluation with the site characterization report described in R18-12-262(D), and
2. Documentation of the Tier 2 evaluation as soon as practicable during the course of conducting risk-based responses to contamination, as a stand alone document or in conjunction with one of the following:
   a. The site characterization report described in R18-12-262(D);
   b. The CAP as described in R18-12-263.02(B); or
   c. The corrective action completion report described in R18-12-263.03(D).
3. Documentation of the Tier 3 evaluation shall be submitted to the Department as soon as practicable during the course of conducting risk-based responses to contamination, as a stand alone document or in conjunction with the CAP described in R18-12-263.02(B).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-263.02. Corrective Action Plan

A. An owner or operator shall prepare a CAP that protects public health and the environment. The Department shall apply the following factors to determine if the CAP protects public health and the environment:
1. The physical and chemical characteristics of the chemical of concern, including toxicity, persistence, and potential for migration;
2. The hydrologic and geologic characteristics of the facility and the surrounding area;
3. The proximity, quality, and current and future uses of groundwater and surface water;
4. The potential effects of residual contamination on groundwater and surface water;
5. The risk characterization for current and potential receptors; and
6. Any information gathered in accordance with R18-12-251 through R18-12-263.03.

B. CAP contents. An owner or operator shall prepare a CAP in a format provided by the Department that includes:

1. The extent of contamination known at the time of the CAP submission, including a current LUST site classification form, as described in R18-12-261.01(E);
2. A description of any responses to soil, surface water, or groundwater contamination initiated;
3. A determination of the foreseeable and most beneficial use of surface water or groundwater within one-quarter mile of the outermost boundaries of the contaminated water, if a Tier 2 or Tier 3 evaluation is used for the corrective action standard for either medium. In making this determination the owner or operator shall:
   a. Conduct a survey of property owners and other persons using or having rights to use water within one-quarter mile of the outermost extent of contaminated water; and
   b. Include within the CAP the names and addressed of persons surveyed and the results;
4. A description of goals and expected results;
5. The corrective action standard for each chemical of concern in each affected medium, and the tier evaluation documents;
6. If active remedial methodologies are proposed the owner or operator shall:
   a. Describe any permits required for the operation of each remediation technology and system.
   b. Describe, in narrative form, the conceptual design, operation, and total estimated cost of three remedial alternatives proposed to perform corrective actions on contaminated soil, surface water or groundwater. Also include data and conclusions supporting the selection and design of each technology and system, including criteria for evaluation of effectiveness in meeting stated objectives and an abandonment plan. The information described in this subsection is not required if the remedial technology in the CAP is limited to approval of corrective action standards developed under Tier 2 or Tier 3 evaluation.
   c. Justify the selection of the remedial alternative chosen for the contamination at and from the LUST site. The owner or operator shall consider site-specific conditions and select a remedial alternative that best meets all of the remediation criteria listed in A.R.S. § 49-1005(D).
   d. Provide schedules for the implementation, operation, and demobilization of any remediation technology and periodic reports as described in R18-12-263(G) to the Department.
7. The reasonably foreseeable effects of residual contamination on groundwater and surface water.
8. Additional information necessary to analyze the site-specific conditions and effectiveness of the proposed remedial response, which may include, but is not limited to a feasibility study.

C. Modification of CAP. The owner or operator shall modify the CAP upon written request of the Department to meet the requirements of subsections (A) and (B). The request for modification shall describe any necessary modification and its rationale. The owner or operator shall respond to the request in writing within 45 calendar days of receipt, or a longer time period approved by the Department. If the requested modification is not made within 45 days, the Department shall disapprove the CAP, and notify the owner or operator in writing under subsection (H)(2).

D. Preliminary CAP approval. If the requirements of subsections (B) and (C) are met, the Department shall provide written notice to the owner or operator that the CAP is complete, and provide public notice required by R18-12-264.01.

E. Implementation before approval. An owner or operator may, in the interest of minimizing environmental contamination and promoting more effective remediation, begin implementation of the remediation technologies, in the CAP, before the plan is approved by the Department, if the owner or operator:
1. Informs the Department in writing before implementation;
2. Complies with any conditions imposed by the Department consistent with the provisions of subsection (A), including halting any activity or mitigating adverse consequences from implementation; and
3. Obtains all necessary permits and approvals for the remediation activities.

F. Modification due to public comment. An owner or operator shall modify the CAP upon written request of the Department that modification is required because of public comment received. The request shall describe any necessary modification and its rationale. The owner or operator shall respond to the modification request within 45 calendar days after receipt. If the requested modification is not made in writing within 45 days, the Department may disapprove the CAP and notify the owner or operator in writing described in subsection (H)(2).

G. Conditions for CAP approval. The Department shall approve a CAP only if the following conditions are met:
1. The CAP contains all elements required in subsections (B), (C), and (F), or the Department makes a determination that it has enough information to make an informed decision to approve the CAP; and
2. The CAP demonstrates that the corrective actions described are necessary, reasonable, cost-effective, technically feasible and meet the requirements of A.R.S. § 49-1005.

H. Notice of CAP approval. The Department shall notify the owner or operator in writing that it is approving or disapproving the CAP as follows:
1. If the conditions in subsections (G)(1) and (G)(2) are satisfied, the Department shall approve the CAP and notify the owner or operator. If the approved CAP includes a corrective action standard for water that is based on a Tier 2 or Tier 3 evaluation, the Department shall send a copy of the notice to the Arizona Department of Water Resources, the applicable county, and municipality where the CAP will be implemented, and water service providers and persons having water rights that may be impacted by the release. The notice shall also be sent to any persons submitting written or oral comments on the proposed CAP. The notice shall include any conditions upon which the approval is based and an explanation of the process for resolving disagreements over the determination under A.R.S. § 49-1091.
2. If the conditions of subsections (G)(1) or (2) are not satisfied, the Department shall disapprove the CAP and notify the owner or operator in writing of the disapproval. The Department shall send the notice to any persons submitting written or oral comments on the proposed CAP. The notice shall include an explanation of the rationale for the disapproval and an explanation of the process for resolving disagreements under A.R.S. § 49-1091.

I. CAP implementation. If the CAP is approved, the owner or operator shall begin implementation in accordance with the approved schedule.

J. CAP termination. The Department may terminate an implemented CAP, and may require a new CAP if the corrective action standards of the approved CAP are not being achieved.

The Department shall provide notice to the owner or operator and the public under R18-12-264.01 if termination of the CAP is being considered.

K. Revisions to an approved CAP. The Department may approve revisions to an approved CAP without additional public notice unless the revision involves alternative remediation methodologies, or may adversely affect public health or the environment.

L. New CAP. The Department shall require a new CAP under R18-12-263(C) or (D) if a revision involves an alternative remediation methodology or may adversely affect public health or the environment.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-263.03. LUST Case Closure

A. LUST case closure request. An owner or operator requesting LUST case closure by the Department shall do so in writing, and submit a corrective action completion report that meets the requirements of this Section. The owner or operator shall submit the request for LUST case closure only after the site investigation requirements in R18-12-261 and R18-12-262, and any remedial response required by R18-12-263 are satisfied.

B. Verification that corrective action standard is met. The owner or operator shall verify that the corrective action standard for each chemical of concern in each contaminated medium is met, and provide documentation of the verification described in subsection (D).

C. Method of water quality verification. If LUST site investigations indicate that water quality was threatened or impacted, the owner or operator shall use an appropriate method of water quality verification. The owner or operator shall provide documentation that contaminant concentrations are at or below the corrective action standard for each chemical of concern in the contaminated groundwater and surface water. In selecting a method of water quality verification, the owner or operator shall consider:

1. Site-specific hydrologic conditions;
2. The full extent of water contamination, as documented in the site characterization report required by R18-12-262; and
3. The existence and location of known receptors that are or may be impacted by the release.

D. Contents of corrective action completion report. The owner or operator shall include the following information in the corrective action completion report, except that identical information previously submitted to the Department is not required to be resubmitted if the name, date, and applicable page(s) of any previous report containing the information required by this subsection is provided:

1. A description of the vertical and lateral extent of contamination;
2. A statement of the corrective action standard for each chemical of concern in each contaminated medium and the evaluation described in R18-12-263.01(B) for each tier evaluated;
3. A list of remediation technologies used to reach the corrective action standard;
4. Documentation verifying that the corrective action standard for each chemical of concern, in each medium of concern, has been met. Verification is not required if an initial investigation regarding soil, surface water, or groundwater described in R18-12-262 demonstrates the corrective action standard for each chemical of concern in each medium of concern has been met;
5. All sample collection locations shall be shown for both the site investigation described in R18-12-262 and the LUST case closure verification described in this Section;
6. Verification that Arizona Department of Water Resources permitted monitor wells, recovery wells, or vapor extraction wells that are abandoned before submission of the LUST case closure request, have been abandoned as required under A.A.C. R12-15-816 and that recovery wells or vapor extraction wells without Arizona Department of Water Resources permits have been abandoned in a manner that ensures that the well will not provide a pathway for contaminant migration;
7. Documentation showing compliance with the requirements for the storage, treatment, or disposal of any derived waste in R18-12-263(F);
8. Documentation showing any institutional or engineering controls that have been implemented, and any legal mechanisms that have been put in place to ensure that the institutional or engineering controls will be maintained;
9. The current LUST site classification form in R18-12-261.01(E); and
10. Any additional information the owner or operator determines is necessary to verify that the LUST case is eligible for closure under this Section.

E. Conditions for approval of LUST case closure. The Department shall inform the owner or operator that a corrective action completion report is approved if it meets the requirements of this Section and A.R.S. § 49-1005, and contains all of the information in subsection (D), or the Department determines that it has enough information to make an informed decision to approve the report and close the LUST case file.

F. Notice of LUST case closure decision. The Department shall provide written notice to the owner or operator that the corrective action completion report either does or does not comply with the requirements of this Section, and that case closure is approved or denied. LUST case closure occurs as follows:

1. If the Department determines that the conditions in subsection (E) are satisfied, the Department shall approve the report, close the LUST case, and notify the owner or operator. The notification shall include any conditions upon which the approval is based and explain the process for resolving disagreements provided by A.R.S. § 49-1091; or
2. If the Department determines that the conditions in subsection (E) are not satisfied, the Department shall disapprove the report and notify the owner or operator. The notification shall include any conditions upon which the disapproval is based and explain the process for resolving disagreements under A.R.S. § 49-1091.

G. Change in foreseeable or most beneficial use of water. If the Department is notified of a change in the foreseeable or most beneficial use of water, documented under a Tier 2 or Tier 3 evaluation, the Department shall reopen the LUST case file and require the owner or operator to perform additional corrective actions as necessary to meet the requirements of R18-12-261 through R18-12-264.01.

H. Subsequent discovery of contamination. If evidence of previously undocumented contamination is discovered at or emanating from the LUST site, the Department may reopen the LUST case file based on an assessment of site specific information and require an owner or operator to perform additional corrective actions necessary to comply with the requirements of R18-12-261 through R18-12-264.01.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-264. General Reporting Requirements

A. Standard first page. An owner or operator making a written submission to the Department under R18-12-251 through R18-12-263.03 shall prepare a cover page, on a Department provided form, that contains the following:

1. The name, address, and daytime telephone number of the person responsible for submitting the document, identified as owner, operator, a political subdivision under A.R.S. § 49-1052(H), a person under A.R.S. § 49-1052(I), or other person notifying the Department of a release or suspected release or conducting corrective actions under A.R.S. § 49-1016(C)(2) or (4), and any identifying number assigned to the person by the Department;
2. Identification of the type of document or request being submitted;
3. The LUST number assigned by the Department to the release that is the subject of the document. If no LUST number is assigned, the date the release or suspected release was reported to the Department;
4. The name and address of the facility, and the facility identification number;
5. The name, address, daytime telephone number, and any identification number assigned by the Department of the owner and operator and the owner of the property that contains LUST; and
6. A certification statement signed by the owner or operator or the person conducting the corrective actions under A.R.S. § 49-1016(C) that reads: "I hereby certify, under penalty of law, that this submittal and all attachments are, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations."

B. Professional registration requirements. Both the professional submitting a written report to the Department under R18-12-260 through R18-12-263.03 and the report shall meet the requirements of the Arizona Board of Technical Registrations under A.R.S. Title 32, Chapter 1 and the rules made under that Chapter.

C. Certified remediation specialist. If the contaminated medium is limited to soil and involves only a Tier 1 or Tier 2 evaluation, an owner or operator may request that the Department accept, without review for completeness or deficiencies, a site characterization report described in R18-12-262(D) or corrective action completion report described in R18-12-263.03(D), signed by a certified remediation specialist meeting the requirements of (B). The Department may audit up to 25% of the documents submitted annually under this subsection. The Department shall select documents to be audited at random, unless the Department receives a written request to review a specific document. The Department shall review the audited document to determine whether it complies with R18-12-262 or R18-12-263.03. The Department shall approve the document based solely on the seal and signature of the certified remediation specialist, if the following certification is signed and notarized by both the certified remediation specialist and the owner or operator. The language of the certification shall be as follows:

> "I hereby certify that I have reviewed the attached report on the underground storage tank (UST) release(s) reported to the Arizona Department of Environmental Quality and have determined that all requirements of A.R.S. § 49-1005 and the rules made under that Section have been met. I request approval of this report as submitted. I agree to indemnify and hold harmless the state of Arizona, the Department of Environmental Quality, and their officers, directors, agents or employees from and against all claims, damages, losses, attorneys' fees, and expenses, arising out of Departmental acceptance of this report based solely on my signature and seal as a certified remediation specialist, including, but not limited to, bodily injury, sickness, disease or injury to or destruction of tangible property, including any loss of use therefrom caused in whole or in part by any negligent act or omission of mine as a certified remediation specialist, any subcontractor, anyone directly or indirectly employed by me or any subcontractor, or anyone for whose acts I or any subcontractor may be liable, regardless of whether or not caused in part by a party indemnified by this certification."

D. Department approval and liability waiver. The owner or operator shall be notified by the Department that the acceptance of a document complying with subsection (C) is based solely on the notarized statement of the certified remediation specialist, without Department review, and that no liability, associated with the acceptance, accrues to the state.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-264.01. Public Participation

A. Public notice. If public notice is required by A.R.S. § 49-1005, or rules made under that Section, the Department shall provide a minimum of 30 calendar days notice to the public regarding a public comment period. The Department shall use methods of public notice designed to reach those members of the public directly affected by the release and the planned corrective actions including, but not limited to, publication in a newspaper of general circulation, posting at the facility, mailing a notice to owners of property affected or potentially affected by contamination from the release and corrective actions, or posting on the Department's internet site. If a CAP includes a corrective action standard for water based on a Tier 2 or Tier 3 evaluation, the Department shall send a copy of the notice to the Arizona Department of Water Resources, the applicable county and any municipality where the CAP will be implemented, water service providers and persons having water rights that may be impacted by the release.

B. Public notice contents. The Department shall provide notice to the public that includes all of the following:

1. Identifies the name of the document submitted to the Department that is available for public comment;
2. Identifies the facility where the release occurred and the site of the proposed corrective actions.
3. Identifies the date the document was submitted to the Department, and name of person who submitted the document;
4. Provides a specific explanation if a corrective action standard for water is based on a Tier 2 or Tier 3 evaluation;
5. Identifies at least two locations where a copy of the document can be viewed by the public, including the Department's Phoenix office and the public library located nearest to the LUST site;
6. Explains that any comments on the document shall be sent to the Underground Storage Tank Program of the Department within the time-frame specified in the notice; and
7. Describes the public meeting provisions of subsection (C).

C. Public meeting. After consideration of the amount of public interest, and before approving a document requiring public participation, the Department may hold a public meeting to receive comments on a document undergoing public review. If the Department holds a public meeting, the Department shall schedule the meeting and notify the public, in accordance with subsection (A), of the meeting time and location.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-265. Reserved

R18-12-266. Reserved

R18-12-267. Reserved

R18-12-268. Reserved

R18-12-269. Reserved

R18-12-270. Temporary Closure

A. Owners shall notify the Department in accordance with R18-12-222(F)(4) within 30 days of the date that an UST system is temporarily closed.

B. Owners and operators of a temporarily closed UST system shall continue operation and maintenance of corrosion protection in accordance with R18-12-231, and release detection in accordance with R18-12-240 through R18-12-245. Discovery of a release or suspected release shall be subject to the provisions of R18-12-274. Release detection is not required if the temporarily closed UST system is emptied of all regulated substances and accumulated residues. The UST system is empty when all contents have been removed from the system so that no more than 2.5 centimeters (1 inch) of residue or 0.3% by weight of the total capacity of the UST system remain in the system. Spill and overfill requirements in accordance with R18-12-220(D), R18-12-221(E) and R18-12-230 do not have to be met during temporary closure.

C. Owners and operators of any UST system which is temporarily closed for three months or more shall also comply with both of the following requirements before the end of the third month following the date on which the UST system began temporary closure:

1. Vent lines left open and functioning;
2. All other lines, pumps, manways, and ancillary equipment capped and secured in accordance with R18-12-281(P)(1).

D. To bring an UST system back into use, owners shall notify the Department in accordance with R18-12-222(F)(5) within 30 days after the date that the UST system is brought back into use.

E. Any temporarily closed UST system that cannot be brought back into service within 12 months from the date it went into temporary closure, shall comply with one of the following before the expiration of the 12-month period:

1. Permanently close the system in accordance with R18-12-271 through R18-12-274,
2. Obtain an extension of temporary closure from the Department in accordance with subsection (G). To be effective, such an extension shall be granted in writing by the Department prior to expiration of the initial 12-month period of temporary closure.

F. A request for an extension shall be made by the owner using the Notification Form as described in R18-12-222(C)(3). The request shall include the results of a site assessment conducted in accordance with R18-12-272. A site assessment is not required if the UST system meets the new system standards of R18-12-220 or the upgrade standards of R18-12-221 provided both of the following are met:

1. The system has had corrosion protection installed in accordance with R18-12-220(B) and (C) or R18-12-221(B) and (C) which has been maintained in accordance with R18-12-231,
2. The system has had an external leak detection system installed in accordance with R18-12-243(E) or R18-12-243(F) which has been maintained in accordance with R18-12-240.

G. Owners requesting an extension of temporary closure shall submit the request in accordance with subsection (F) no later than 30 days prior to the expiration of the 12-month period of temporary closure. The Department shall inform the owner, in writing by certified mail, if the extension request is granted or denied. The UST shall be considered to be in extended temporary closure until the Department's determination is made and the owner is informed in writing. An extension of temporary closure which is granted by the Department shall include the duration and the terms and conditions of the extension. Terms and conditions shall be based upon the Department's assessment of what is reasonably necessary to protect human health and the environment. When the request for extension is denied, the UST system shall complete permanent closure in accordance with R18-12-271 through R18-12-274 or return to active service within 180 days of the date on which the Department informed the owner of the denial of the extension request, as evidenced by the return receipt. In the event of a denial of a request for an extension, the UST shall be considered to be in extended temporary closure until the 180 day period following notice of the denial has elapsed.

Historical Note

Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-271. Permanent Closure and Change-in-service

A. At least 30 days before beginning permanent closure or a change-in-service under subsection (C), owners and operators shall inform the Department in writing of their intent to permanently close or make a change-in-service of an UST. If closure or change-in-service is not completed within six months from the date the Department is informed, the information is deemed to be expired. Owners and operators shall provide the Department with all of the following information:

1. UST system owner name, address, and telephone number;
2. Facility name or company site identifier;
3. Facility street address;
4. Description of each UST system to be closed, including date of installation, total capacity, and construction material;
5. The estimated date of permanent closure or change-in-service.

B. The Department shall waive the 30-day notice described in subsection (A) if the permanent closure is in response to a corrective action conducted under A.R.S. § 49-1005 which was reported under A.R.S. § 49-1004. In addition, the Department may determine another reasonable time period for the notice of intent to permanently close or make a change-in-service to the UST system if any of the following exist:

1. An emergency that threatens human health or the environment,
2. The Department agrees to a request made by an entity operating under an Intergovernmental Agreement with the Department delegating closure inspection authority.

C. To permanently close or make a change-in-service to an UST system, owners and operators shall comply with R18-12-281(P) and shall perform all of the following steps:
1. Develop documented evidence that the contents of the system are a regulated substance. Unless system contents can be documented through delivery receipts or knowledge of process, a waste determination in accordance with R18-8-261(A) shall be performed. If contents are not a regulated substance, they may be subject to hazardous, solid or special waste regulations as follows:
   a. If the contents of an UST system are determined to meet the definition of a hazardous waste based upon a waste determination, the contents may be subject to the requirements of A.R.S. §§ 49-901 et seq. and the rules promulgated thereunder;
   b. If the contents of an UST system are not a regulated substance and not a hazardous waste, the contents may be subject to the requirements of R18-8-511 and R18-8-512.
2. Drain and flush back into the tank regulated substances from piping and any other ancillary equipment that routinely contains regulated substances. All piping, dispensers, and other ancillary equipment to be closed shall be capped or removed;
3. Empty to the standard set forth in R18-12-270(B) and clean the UST by removing all liquids and accumulated residues. The liquids and accumulated residues which meet the definition of hazardous waste pursuant to A.R.S. § 49-921(5) may be subject to regulation under A.R.S. §§ 49-901 et seq. If the liquids and accumulated residues are not hazardous waste, they may be subject to regulation pursuant to A.R.S. §§ 49-701 et seq;
4. Remove from the ground or fill completely with inert solid materials all tanks permanently taken out-of-operation unless the UST system component is making a change-in-service;
5. Perform the site assessment at closure or change-in-service in accordance with R18-12-272. The site assessment shall be performed after informing the Department but prior to completion of the permanent closure or change-in-service. If the tank is removed, samples shall be taken at the time of removal.

D. Owners and operators who permanently close or make a change-in-service of an UST system shall prepare a closure report in a format provided by the Department. The closure report shall be submitted to the Department within 30 days of the completion of closure or change-in-service. The report shall be maintained by the Department for at least three years from the date of receipt as evidenced by the post mark or the date stamped on the document by the Department. The report shall demonstrate compliance with the requirements of this Section and R18-12-272. In addition, the report shall include all of the following:
1. The name of the facility owner and operator, facility name and address, facility identification number, and a certification statement signed by the UST owner or operator or the authorized agent of the owner or operator that reads: "I hereby certify, under penalty of law, that this submittal and all attachments were prepared under my direction and supervision, and that the information submitted is true, accurate, and complete to the best of my knowledge."
2. Information concerning the required soil sampling, conducted in accordance with R18-12-272, which shall include the rationale for selecting sample types, sample locations, and measurement methods and, for each sample, all of the following: sample location identification number; sample depth; sampling date; date of laboratory analysis; lithology of sample; field soil vapor readings, if obtained; analytical methods used; laboratory results; numerical detection limits; and all sampling quality assurance and quality control results;
3. Information concerning the required water sampling, conducted in accordance with R18-12-280, which shall include, for each sample, all of the following: sample location identification number; sampling date; date of laboratory analysis; laboratory results; analytical methods used; numerical detection limits; and all sampling quality assurance and quality control results;
4. Copies of all original laboratory reports and chain-of-custody forms, and any supporting laboratory documents which discuss any analytical quality assurance and quality control anomalies experienced by the laboratory. The laboratory reports shall include, for each sample, all of the following: analytical methods; sample collection date; extraction date; sample analysis date; laboratory detection limits; and all analytical quality assurance and quality control analyses conducted by the laboratory for or during the analyses of the subject samples;
5. A brief, site-specific narrative description of the sampling quality assurance and quality control program followed in the field in accordance with R18-12-280(B). Any sampling quality assurance and quality control anomalies shall be discussed in detail. The report shall include a determination as to the validity of the data from a scientific standpoint;
6. A scaled map showing the locations of the tank, piping, and dispensers and the locations of all samples obtained in accordance with R18-12-272.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-272. Assessing the UST Site at Closure or Change-in-service

A. Before permanent closure or a change-in-service is completed, owners and operators shall measure for the presence of a release at the UST site by taking samples for laboratory analysis. Samples shall be obtained in the areas where contamination would most likely occur, or where stained soils, odors, vapors, free product, or other evidence indicates that a release may have occurred. Measurement for presence of a release shall be performed according to all of the following:
1. Owners and operators shall document the environmental condition of the UST site and the presence or absence of any contamination resulting from the operation of the UST system at the site through analyses performed on samples of native soil, and of water encountered during the UST closure assessment;
2. Specific locations for the required sampling at the UST system site shall be determined by the presence of stained soils, odors, vapors, free product, or other evidence indicating that a release may have occurred. In selecting sample types, sample locations, and measurement methods, owners and operators shall also consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors which may identify the presence of a release. At a minimum, each site shall be sampled in accordance with the following:
   a. If water is not present in the excavation at the time an UST is removed or if the UST is filled with a solid inert material as described in R18-12-

271(C)(4), a minimum of two distinct soil samples shall be taken from native soils beneath each tank that has a capacity to hold more than 550 gallons. The samples shall be taken from beneath each end of each tank. In cases where the fill pipe or pump is located above the center of the tank, an additional sample shall be taken from beneath the center of the tank. If the capacity of the tank is 550 gallons or less, then one sample shall be taken from native soils beneath the center of the tank;

b. If water is present above the floor of the excavation at the time an UST is removed, distinct samples of native soils shall be taken from the walls of the excavation at the soil-water interface at both ends of the tank;

c. If native soil cannot be collected in accordance with R18-12-280 due to large clast size or induration, or if the excavation zone is constructed in bedrock one of the following shall be performed:

i. Samples of the UST excavation backfill material shall be collected from beneath the UST system in accordance with locations described in subsection (A)(2)(a).

ii. If the UST excavation backfill material cannot be sampled, the Department shall be contacted for further instruction.

d. If water is encountered during activities required under this Section, a sample of the water shall be collected for analysis. If a sheen or free product is observed on the water or in the sample, the sampling requirements of subsection (A)(2) do not have to be met, however, further reporting and investigation shall be conducted in accordance with R18-12-274;

e. If piping is permanently closed in accordance with R18-12-271(C)(2) distinct samples of native soil shall be collected every 20 linear feet along the piping trench. In addition, distinct samples of native soil shall be collected under elbows, joints, fittings, dispensers and areas of corrosion;

f. Stockpiled excavated soil shall be sampled in accordance with A.R.S. Title 49, Chapter 4, Article 9, and the rules promulgated thereunder.

3. All required sampling shall be performed in accordance with R18-12-280.

B. The requirements of this Section are satisfied if owners and operators document all of the following:

1. The UST system is monitored by one of the external release detection methods described in R18-12-243(E) or (F),
2. The release detection system has been operated in accordance with the requirements of R18-12-240,
3. The release detection system indicates no releases have occurred.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-273. Application of Closure Requirements to Previously Closed Systems
When directed to do so by the Department, owners and operators of an UST system which was permanently closed before December 22, 1988, shall assess the excavation zone and close the UST system in accordance with R18-12-271, R18-12-272, and R18-12-274 if known, suspected, or potential releases from the UST system, in the judgment of the Department, may pose a current or potential threat to human health or the environment.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-274. Release Reporting and Corrective Action for Closed Systems
If a release or suspected release is discovered during temporary closure under R18-12-270 or in the performance of the procedures described in R18-12-272(A), owners and operators shall report the release and perform corrective action as required under A.R.S. §§ 49-1004 and 49-1005 and the rules promulgated thereunder.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-275. Reserved

R18-12-276. Reserved

R18-12-277. Reserved

R18-12-278. Reserved

R18-12-279. Reserved

R18-12-280. Sampling Requirements

A. Required analytical procedures. For all sampling under this Chapter, an owner or operator shall:

1. Analyze samples for the chemicals of concern associated with regulated substances stored in the UST during its operational life by analytical test methods that are approved for analysis of each chemical of concern under A.A.C. R9-14-601 through R9-14-617. Before collecting samples, the Department may approve, a different procedure after considering whether the analytical data will be representative of the concentrations and compositions of volatile regulated substances existing in the contaminated medium;
2. Perform sample analyses using a laboratory licensed for the selected analytical method by the Arizona Department of Health Services under A.A.C. R9-14-601 through A.A.C. R9-14-617; and
3. Analyze samples within the specified time period required for the analytical test method under A.A.C. R9-14-601 through A.A.C. R9-14-617.

B. Quality assurance and quality control (QA/QC). For all required sampling under this Chapter, an owner or operator shall:

1. Decontaminate sampling equipment as provided in R18-12-281(Q);
2. Handle and transport samples using a methodology that will result in analytical data that is representative of the concentrations and compositions of the chemicals of concern that may exist in the contaminated medium;
3. Follow chain-of-custody procedures under R18-12-281(S), for all required sampling, including the condition and temperature of the samples received by the laboratory on the chain-of-custody record; and
4. Follow generally accepted industry standards. For the purpose of subsection (B), "generally accepted industry standards" means those QA/QC procedures that are described in publications of national organizations concerned with corrective actions or that otherwise appear in peer-reviewed literature.

C. Soil sampling. An owner or operator shall perform all soil sampling required under this Chapter using a methodology that will result in analytical data that is representative of the concentrations and compositions of the chemicals of concern that may exist in the contaminated soil. The owner or operator shall use a sampling method that is based on consideration of all of the following criteria:

1. The specific chemicals of concern potentially involved,
2. Site-specific lithologic conditions,
3. Depth of sample collection, and
4. Generally accepted industry standards. For the purpose of subsection (C), "generally accepted industry standards" means those soil sampling activities that are described in publications of national organizations concerned with corrective actions or that otherwise appear in peer-reviewed literature.

D. Groundwater sampling. An owner or operator shall perform all required groundwater sampling under this Chapter using a methodology that will result in analytical data that is representative of the concentrations and compositions of the chemicals of concern that may exist in the groundwater. The owner or operator shall use a sampling method that is based on consideration of all of the following criteria:

1. The specific chemicals of concern potentially involved,
2. Site-specific hydrologic conditions,
3. Site-specific monitor well construction details,
4. Depth of sample collection, and
5. Generally accepted industry standards. For the purpose of subsection (D), "generally accepted industry standards" means those groundwater sampling activities that are described in publications of national organizations concerned with corrective actions or that otherwise appear in peer-reviewed literature.

E. Surface water sampling. An owner or operator shall perform all required surface water sampling under this Chapter using a methodology that will result in analytical data that is representative of the concentrations and compositions of the chemicals of concern that may exist in the surface water. The owner or operator shall use a sampling method that is based on consideration of all of the following:

1. The specific chemicals of concern involved or potentially involved,
2. Site-specific hydrologic conditions, and
3. Generally accepted industry standards. For the purpose of subsection (E), "generally accepted industry standards" means those surface water sampling activities that are described in publications of national organizations concerned with corrective actions or that otherwise appear in peer-reviewed literature.

Historical Note

Adopted effective July 30, 1996 (Supp. 96-3). Amended by final rulemaking at 8 A.A.R. 3894, effective August 20, 2002 (Supp. 02-3).

R18-12-281. UST System Codes of Practice and Performance Standards

A. Compliance with R18-12-211(B) shall be determined by utilization of The National Association of Corrosion Engineers Standard RP0285-85, "Standard Recommended Practice Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems" amended as of 1985 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

B. Compliance with R18-12-220(B)(1) shall be determined by utilization of one of the following:

1. Underwriters Laboratories Standard 1316, "Standard for Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products" July 1983, and amended May 1991 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
2. Underwriters Laboratories of Canada CAN4-S615-M83, "Standard for Reinforced Plastic Underground Tanks for Petroleum Products" February 1983 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
3. American Society for Testing and Materials Standard D 4021-86, "Standard Specification for Glass-Fiber-Reinforced Polyester Underground Petroleum Storage Tanks" amended July 25, 1986 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

C. Compliance with R18-12-220(B)(2) shall be determined by utilization of one of the following:

1. Steel Tank Institute, "Specification for STI-P3 System of External Corrosion Protection of Underground Steel Storage Tanks" amended as of November 1, 1989 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
2. Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks" amended November 7, 1990 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
3. Underwriters Laboratories of Canada CAN/ULC-S603.1-92, "Standard for Galvanic Corrosion Protection Systems for Steel Underground Tanks for Flammable and Combustible Liquids" amended as of September 1992 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State and Underwriters Laboratories of Canada CAN4-S631-M84, "Standard for Isolating Bushings for Steel Underground Tanks Protected with Coatings and Galvanic Systems" amended as of October 1992 (and no future amendments or editions), which are incorporated by reference and are on file with the Department and the Office of the Secretary of State;
4. National Association of Corrosion Engineers Standard RP0285-85, "Standard Recommended Practice Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems" and Underwriters Laboratories Standard 58, "Standard for Steel Underground Tanks for Flammable and Combustible Liquids" amended as of August 3, 1990 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

D. Compliance with R18-12-220(B)(3) shall be determined by utilization of one of the following:

1. Underwriters Laboratories Standard 1746, "External Corrosion Protection Systems for Underground Storage Tanks" (November 7, 1990);
2. Steel Tank Institute ACT-100, "Specification for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks" amended as of March 6, 1991 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

E. Compliance with R18-12-220(C)(1) shall be determined by utilization of all of the following:

1. Underwriters Laboratories Subject 971, "Standard for NonMetallic Underground Piping for Flammable Liquids" March 17, 1992 (and no future amendments or edi-

tions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;

2. Underwriters Laboratories Standard 567, "Pipe Connectors for Flammable and Combustible Liquids and LP Gas" amended as of May 29, 1991 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
3. Underwriters Laboratories of Canada Subject C-107C-M1984, "Guide for Glass Fibre Reinforced Plastic Pipe and Fittings for Flammable Liquids" June 1984 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.
4. Underwriters Laboratories of Canada Standard CAN/ULC-S633-M90, "Standard for Flexible Underground Hose Connectors for Flammable and Combustible Liquids" amended as of June 1990 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

F. Compliance with R18-12-220(C)(2) shall be determined by utilization of all of the following:

1. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" amended as of August 17, 1990 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
2. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems" amended as of November 1987, Supplement March 6, 1989 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
3. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems" amended as of December 1987, Supplement March 6, 1989 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
4. National Association of Corrosion Engineers Standard RP0169-92, "Standard Recommended Practice Control of External Corrosion on Underground or Submerged Metallic Piping Systems" 1983, amended as of 1992 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

G. Compliance with R18-12-220(C)(3)(b) shall be determined by utilization of both of the following:

1. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" (August 17, 1990);
2. National Association of Corrosion Engineers Standard RP0169-92, "Control of External Corrosion on Submerged Metallic Piping Systems" (1992).

H. Compliance with R18-12-220(E)(2) shall be determined by utilization of one of the following:

1. American Petroleum Institute Publication 1615, "Installation of Underground Petroleum Storage Systems" November 1987, Supplement March 6, 1989;
2. Petroleum Equipment Institute Publication PEI/RP100-90, "Recommended Practices for Installation of Underground Liquid Storage Systems" amended as of 1990 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
3. American National Standards Institute Standard B31.3, "Chemical Plant and Petroleum Refinery Piping" amended as of 1993 with Addenda (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State, and American National Standards Institute Standard B31.4, "Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols" 1992 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

I. Compliance with R18-12-221(D) shall be determined by utilization of all of the following:

1. American Petroleum Institute Publication 1631, "Interior Lining of Underground Storage Tanks" amended as of April 1992, October 1995 addendum (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
2. National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10-year Life Extension of Existing Steel Underground Storage Tanks By Lining Without the Addition of Cathodic Protection" amended as of September 1988 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
3. National Association of Corrosion Engineers Standard RP0285-85, "Standard Recommended Practice Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems" (1985).
4. American Petroleum Institute Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping System" (December 1987, Supplement March 6, 1989).

J. Compliance with R18-12-230(A) shall be determined by utilization of one of the following:

1. National Fire Protection Association Publication 385, "Standard for Tank Vehicles for Flammable and Combustible Liquids" amended as of 1990 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
2. American Petroleum Institute Publication 1621, "Bulk Liquid Stock Control At Retail Outlets" December 1987, Supplement March 6, 1989 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State, and National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" (August 17, 1990).

K. Compliance with R18-12-231(B)(2) shall be determined by utilization of National Association of Corrosion Engineers Standard RP0285-85, "Standard Recommended Practice Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems" (1985).

L. Compliance with R18-12-232 shall be determined by utilization of both of the following:

1. American Petroleum Institute Publication 1626, "Storing and Handling Ethanol and Gasoline-Ethanol Blends at Distribution Terminals and Service Stations" April 1985 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;

2. American Petroleum Institute Publication 1627, "Storage and Handling of Gasoline-Methanol/Cosolvent Blends at Distribution Terminals and Service Stations" August 1986 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

M. Compliance with R18-12-233(A)(1) shall be determined by utilization of all of the following:
1. National Fire Protection Association Standard 30, "Flammable and Combustible Liquids Code" (August 17, 1990);
2. American Petroleum Institute Publication 2200, "Repairing Crude Oil, Liquefied Petroleum Gas, and Product Pipelines" amended as of April 1983 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
3. American Petroleum Institute Publication 1631, "Interior Lining of Underground Storage Tanks" (December 1987);
4. National Leak Prevention Association Standard 631, "Spill Prevention, Minimum 10-year Life Extension of Existing Underground Storage Tanks By Lining Without the Addition of Cathodic Protection" (September 1988).

N. Compliance with R18-12-233(A)(2) shall be determined by utilization of Fiberglass Petroleum Tank & Piping Institute T-90-01 "Remanufacturing of Fiberglass Reinforced Plastic (RFP) Underground Storage Tanks" July 1990 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

O. Compliance with R18-12-243(A) shall be determined by utilization of American Petroleum Institute Publication 1621, "Bulk Liquid Stock Control At Retail Outlets" (December 1987, Supplement March 6, 1989).

P. Compliance with R18-12-271(C) shall be determined by utilization of all of the following:
1. American Petroleum Institute Publication 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks" amended as of December 1987, Supplement March 6, 1989 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
2. American Petroleum Institute Publication 2015, "Safe Entry and Cleaning Petroleum Storage Tanks" amended as of January 1991 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
3. American Petroleum Institute Publication 1631, "Interior Lining of Underground Storage Tanks" (April 1992).
4. The National Institute for Occupational Safety and Health Publication 80-106, "Criteria for a Recommended Standard Working in Confined Spaces" amended as of December 1979 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

Q. Compliance with R18-12-280(B)(1) shall be determined by utilization of American Society for Testing and Materials Standard D 5088-90, "Practice for Decontamination of Field Equipment Used at Nonradioactive Waste Sites" revised as of June 29, 1990 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

R. Compliance with R18-12-280(B)(2) and (C) shall be determined by utilization of both of the following:
1. American Society for Testing and Materials Standard D 4547-91: "Standard Practice for Sampling Waste and Soils for Volatile Organics" revised as of August 15, 1991 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State;
2. American Society for Testing and Materials Standard D 4700-91, "Standard Guide for Soil Sampling from the Vadose Zone" revised as of July 15, 1991 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

S. Compliance with R18-12-280(B)(3) shall be determined by utilization of American Society for Testing and Materials Standard D 4840-88, "Standard Practice for Sampling Chain of Custody Procedures" approved June 1988 and published in October 1988, re-approved as of 1993 (and no future amendments or editions), which is incorporated by reference and on file with the Department and the Office of the Secretary of State.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

ARTICLE 3. FINANCIAL RESPONSIBILITY

R18-12-300. Financial Responsibility; Applicability

A. R18-12-301 through R18-12-325 apply to all owners and operators of petroleum UST systems, except as otherwise provided in this Section.

B. Owners and operators of a petroleum UST system are subject to the requirements of R18-12-301 through R18-12-325 if the petroleum UST system is being used on the effective date of this Section, or anytime thereafter.

C. State and federal government entities whose debts and liabilities are the debts and liabilities of a state or the United States are exempt from the requirements of this Article.

D. R18-12-303 through R18-12-325 do not apply to owners and operators of any UST system excluded or deferred under 40 CFR 280.10(b) or 40 CFR 280.10(c) as described in A.R.S. § 49-1021. 40 CFR 280.10(b) and 40 CFR 280.10(c), amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department of Environmental Quality and the Office of the Secretary of State.

E. If owners and operators of a petroleum underground storage tank are separate persons, only one person is required to demonstrate financial responsibility; however, both parties are liable in event of noncompliance. Regardless of which party complies, the date set for compliance at a particular facility is determined by the characteristics of the owner as set forth in R18-12-301.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-301. Financial Responsibility; Compliance Dates; Allowable Mechanisms; Evidence

A. Owners and operators shall submit to the Department evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this Article for an underground storage tank as follows:
1. All petroleum marketing firms owning 1,000 or more USTs and all other UST owners that report a tangible net worth of $20 million or more to the U.S. Securities and Exchange Commission (SEC), Dun and Bradstreet, the Energy Information Administration, or the Rural Electri-

fication Administration: within 180 days after the effective date of this Section;
2. All petroleum marketing firms owning 100-999 USTs: within 180 days after the effective date of this Section;
3. All petroleum marketing firms owning a total of 13-99 USTs which are located at more than one facility: within 180 days after the effective date of this Section;
4. All petroleum UST owners not described in subsections (A)(1) through (3), excluding all local government entities: by December 31, 1993;
5. All local government entities: one year from the date of final federal promulgation of additional mechanisms for use by local government entities to comply with financial responsibility requirements for underground storage tanks containing petroleum.

B. Owners and operators shall use the financial assurance mechanisms in this Article to comply with financial responsibility requirements as follows:
1. Owners and operators, including local government owners and operators, may use any one or combination of the financial assurance mechanisms listed in R18-12-305 through R18-12-312 to demonstrate financial responsibility under this Article for one or more underground storage tanks;
2. Local government owners and operators may also use any one or combination of the financial assurance mechanisms listed in R18-12-314 through R18-12-317 to demonstrate financial responsibility under this Article for one or more underground storage tanks.

C. Owners and operators shall submit evidence of compliance with the requirements of this Article. Owners and operators shall submit to, and maintain with, the Department a copy of any one or combination of the assurance mechanisms specified in R18-12-305 through R18-12-312, and R18-12-314 through R18-12-317 currently in effect along with a copy of the standby trust agreement, if required. Owners and operators using an assurance mechanism specified in R18-12-305 through R18-12-312 and R18-12-314 through R18-12-317 shall submit to, and maintain with, the Department an updated copy of a certification of financial responsibility worded as provided in 40 CFR 280.111(b)(11)(i), except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. 40 CFR 280.111(b)(11)(i), amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State. In addition, local government owners and operators shall comply with one or more of the following:
1. Local government owners and operators using the local government bond rating test under R18-12-314 shall submit a copy of its bond rating published within the last 12 months by Moody's or Standard & Poor's;
2. Local government owners and operators using the local government guarantee under R18-12-316, if the guarantor's demonstration of financial responsibility relies on the bond rating test under R18-12-314 shall submit a copy of the guarantor's bond rating published within the last 12 months by Moody's or Standard & Poor's;
3. Local government owners and operators using a local government fund under R18-12-317 shall submit the following documents:
   a. A copy of the state constitutional provision or local government statute, charter, ordinance, or order dedicating the fund;
   b. Year-end financial statements for the most recent completed financial reporting year showing the amount in the fund. If the fund is established under R18-12-317(A)(3) using incremental funding backed by bonding authority, the financial statements shall show the previous year's balance, the amount of funding during the year, and the closing balance in the fund;
   c. If the fund is established under R18-12-317(A)(3) using incremental funding backed by bonding authority, owners and operators shall also submit documentation of the required bonding authority, including either the results of a voter referendum under R18-12-317(A)(3)(a), or attestation by the state attorney general as specified under R18-12-317(A)(3)(b).
4. Local government owners and operators using the local government guarantee supported by the local government fund shall submit a copy of the guarantor's year-end financial statements for the most recent completed financial reporting year showing the amount of the fund.

D. Owners and operators shall maintain evidence of all financial assurance mechanisms used to demonstrate financial responsibility under this Article for an underground storage tank until released from the requirements of this Article under R18-12-323. Owners and operators shall maintain such evidence at the underground storage tank site or a readily available alternative site. Records maintained off-site shall be provided for inspection to the Department upon request.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-302. Reserved

R18-12-303. Amount and Scope of Required Financial Responsibility

A. Owners and operators of petroleum USTs shall demonstrate financial responsibility for taking corrective action and for compensating 3rd parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum USTs in at least the following per-occurrence amounts:
1. For owners and operators of petroleum USTs that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of petroleum per month based on annual throughput for the previous calendar year: $1 million;
2. For owners and operators of petroleum USTs not described in subsection (A)(1): $500,000.

B. Owners and operators of petroleum USTs shall demonstrate financial responsibility for taking corrective action and for compensating 3rd parties for bodily injury and property damage caused by accidental releases arising from the operation of a petroleum UST in at least the following annual aggregate amounts:
1. For owners and operators of 1 to 100 petroleum USTs: $l million,
2. For owners and operators of 101 or more petroleum USTs: $2 million.

C. For the purposes of subsections (B) and (G) only, "a petroleum underground storage tank" means a single containment unit and does not mean combinations of single containment units.

D. Except as provided in subsection (E), if owners and operators use separate mechanisms or combinations of separate mechanisms to demonstrate financial responsibility for taking corrective action, compensating 3rd parties for bodily injury and property damage caused by sudden accidental releases, or compensating 3rd parties for bodily injury and property dam-

age caused by nonsudden accidental releases, the amount of assurance provided by each mechanism or combination of mechanisms shall be in the full amount specified in subsections (A) and (B).

E. If owners and operators use separate mechanisms or combinations of separate mechanisms to demonstrate financial responsibility for different petroleum USTs, the annual aggregate required shall be based on the number of tanks covered by each such separate mechanism or combination of mechanisms.

F. If owners and operators utilize one mechanism, separate mechanisms, or combinations of separate mechanisms to demonstrate financial responsibility for petroleum USTs in more than one state or territory, with more than one implementing agency, the identification of systems covered by each mechanism shall include the implementing agency for each facility or group of facilities. All facilities subject to the requirements of this rule shall also be identified by the UST facility identification number assigned by the Department.

G. Owners and operators shall review the amount of aggregate assurance provided whenever additional petroleum USTs are acquired or installed. If the number of petroleum underground storage tanks for which assurance shall be provided exceeds 100, owners and operators shall demonstrate financial responsibility in the amount of at least $2 million of annual aggregate assurance by the anniversary of the date on which the mechanism demonstrating financial responsibility became effective. If assurance is being demonstrated by a combination of mechanisms, owners and operators shall demonstrate financial responsibility in the amount of at least $2 million of annual aggregate assurance by the 1st-occurring effective date anniversary of any one of the mechanisms combined, other than a financial test or guarantee, to provide assurance.

H. The amounts of assurance required under this Section exclude legal defense costs.

I. The per-occurrence and annual aggregate coverage amounts required by this Section do not limit the liability of owners and operators.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-304. Reserved

R18-12-305. Financial Test of Self-insurance

A. Owners, operators, or guarantors may satisfy the requirements of R18-12-303 by passing a financial test as specified in this Section. To pass the financial test of self-insurance, owners, operators, or guarantors shall meet the criteria of either subsection (B) or (C) based on year-end financial statements for the latest completed fiscal year.

B. In order to pass a financial test of self-insurance under this subsection, owners operators, or guarantors shall meet all of the following requirements:

1. Have a tangible net worth of at least 10 times all of the following:
   a. The total of the applicable aggregate amount required by R18-12-303, based on the number of underground storage tanks for which a financial test of self-insurance is used to demonstrate financial responsibility;
   b. The sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and amount of liability coverage for which a financial test of self-insurance is used to demonstrate financial responsibility under R18-8-264;
   c. The sum of current plugging and abandonment cost estimates for which a financial test of self-insurance is used to demonstrate financial responsibility under 40 CFR 144.63. 40 CFR 144.63, amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.
2. Have a tangible net worth of at least $10 million,
3. Have a letter signed by the chief financial officer worded as specified in subsection (D),
4. Do either one of the following:
   a. File financial statements annually with the U.S. Securities and Exchange Commission, the Energy Information Administration, or the Rural Electrification Administration.
   b. Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and Bradstreet shall have assigned the firm a financial strength rating of 4A or 5A.
5. The firm's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification.

C. In order to pass a financial test of self-insurance under this subsection, owners, operators, or guarantors shall meet all of the following requirements:

1. Owners, operators, or guarantors shall meet the financial test requirements of 40 CFR 264.147(f)(1), substituting the appropriate amount specified in either R18-12-303(B)(1) or (2) for the "amount of liability coverage" each time specified in that Section. 40 CFR 264.147(f)(1), amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State;
2. The fiscal year-end financial statements of owners, operators, or guarantors shall be examined by an independent certified public accountant and be accompanied by the accountant's report of the examination;
3. The firm's year-end financial statements cannot include an adverse auditor's opinion, a disclaimer of opinion, or a "going concern" qualification;
4. Owners, operators, or guarantors shall have a letter signed by the chief financial officer, worded as specified in subsection (D);
5. If the financial statements of owners, operators, or guarantors are not submitted annually to the U.S. Securities and Exchange Commission, the Energy Information Administration or the Rural Electrification Administration, owners, operators, or guarantors shall obtain a special report by an independent certified public accountant stating all of the following:
   a. The accountant has compared the data that the letter from the chief financial officer specifies as having been derived from the latest year-end financial statements of owners, operators, or guarantors, with the amounts in such financial statements.
   b. In connection with the comparison under subsection (C)(5)(a), no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.

D. To demonstrate that it meets the financial test under subsection (B) or (C), the chief financial officer of owners, operators, or guarantors, shall sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as provided in 40 CFR 280.95(d), except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

40 CFR 280.95(d), amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.

E. If owners and operators, using a financial test of self-insurance for financial responsibility find that they no longer meet the requirements of the financial test based on the year-end financial statements, owners and operators shall obtain alternative coverage within 150 days of the end of the financial reporting year for which financial statements have been prepared.

F. The Director may require reports of financial condition at any time from owners, operators, or guarantors. If the Director finds, on the basis of such reports or other information, that owners, operators, or guarantors, no longer meet the financial test requirements, owners and operators shall obtain alternate coverage within 30 days after notification of such a finding.

G. If owners and operators fail to obtain alternate assurance within 150 days of finding that they no longer meet the requirements of the financial test based on the year-end financial statements, or within 30 days of notification by the Director that they no longer meet the requirements of the financial test, owners and operators shall notify the Director of such failure within 10 days.

H. Owners and operators may use self-insurance in combination with a guarantee only if, for the purpose of meeting the requirements of the financial test under this Section, the financial statements of the owner or operator are not consolidated with the financial statements of the guarantor.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-306. Guarantee

A. Owners and operators may satisfy the requirements of R18-12-303 by obtaining a guarantee that conforms to the requirements. The guarantor shall be either one of the following:
1. A firm that meets any one of the following descriptions:
   a. Possesses a controlling interest in the owner or operator,
   b. Possesses a controlling interest in a firm described under subsection (A)(1)(a),
   c. Is controlled through stock ownership by a common parent firm that possesses a controlling interest in the owner or operator.
2. A firm engaged in a substantial business relationship with the owner or operator and who issues the guarantee as an act incident to that business relationship.

B. Within 120 days of the close of each financial reporting year, the guarantor shall demonstrate that it meets the financial test criteria of R18-12-305 based on year-end financial statements for the latest completed financial reporting year by completing the letter from the chief financial officer described in R18-12-305(D) and shall deliver the letter to owners and operators. If the guarantor fails to meet the requirements of the financial test at the end of any financial reporting year, within 120 days of the end of that financial reporting year the guarantor shall send by certified mail, before cancellation or nonrenewal of the guarantee, notice to owners or operators. If the Director notifies the guarantor that the guarantor no longer meets the requirements of the financial test of R18-12-305(B) or (C) and (D), the guarantor shall notify owners and operators within 10 days of receiving such notification from the Director. In both cases, the guarantee terminates no less than 120 days after the date the owner and operator receives the notification, as evidenced by the return receipt. Owners and operators shall obtain alternate coverage as specified in R18-12-318.

C. The guarantee shall be worded as provided in 40 CFR 280.96(c), except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. 40 CFR 280.96(c), amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.

D. Owners and operators who use a guarantee to satisfy the requirements of R18-12-303 shall establish a standby trust fund when the guarantee is obtained. Under the terms of the guarantee, all amounts paid by the guarantor under the guarantee will be deposited directly into the standby trust fund in accordance with instructions from the Director under R18-12-322. This standby trust fund shall meet the requirements specified in R18-12-313.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-307. Insurance and Risk Retention Group Coverage

A. Owners and operators may satisfy the requirements of R18-12-303 by obtaining liability insurance that conforms to the requirements from a qualified insurer or risk retention group. Such insurance may be in the form of a separate insurance policy or an endorsement to an existing insurance policy.

B. Each insurance policy shall be amended by an endorsement worded as specified in 40 CFR 280.97(b)(1) or evidenced by a certificate of insurance worded as specified in 40 CFR 280.97(b)(2), except that instructions in brackets shall be replaced with the relevant information and the brackets deleted. 40 CFR 280.97(b)(1) and (2) amended as of July 1, 1994 (and no future amendments or editions), are incorporated by reference and on file with the Department and the Office of the Secretary of State. Termination under 40 CFR 280.97(b)(1) and (2) as referenced in this Section means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

C. Each insurance policy shall be issued by an insurer or a risk retention group that, at a minimum, is licensed to transact the business of insurance or eligible to provide insurance as an excess or surplus lines insurer in one or more states.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-308. Surety Bond

A. Owners and operators may satisfy the requirements of R18-12-303 by obtaining a surety bond that conforms to the requirements of this Section. The surety company issuing the bond shall be among those listed as acceptable sureties on federal bonds in the June 30, 1995, Circular 570 of the U.S. Department of the Treasury. Circular 570 of the U.S. Department of the Treasury, amended as of June 30, 1995, (and no future amendments or editions), is incorporated by reference and on file with the Department and the Office of the Secretary of State.

B. The surety bond shall be worded as provided in 40 CFR 280.98(b), except that instructions in brackets shall be replaced with the relevant information and the brackets deleted. 40 CFR 280.98(b) amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.

C. Under the terms of the bond, the surety shall become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. In all cases, the surety's liability is limited to the per-occurrence and annual aggregate penal sums.

D. Owners and operators who use a surety bond to satisfy the requirements of R18-12-303 shall establish a standby trust fund when the surety bond is acquired. Under the terms of the bond, all amounts paid by the surety under the bond shall be deposited directly into the standby trust fund in accordance with instructions from the Director under R18-12-322. This standby trust fund shall meet the requirements specified in R18-12-313.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-309. Letter of Credit

A. Owners and operators may satisfy the requirements of R18-12-303 by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Section. The issuing institution shall be an entity that has the authority to issue letters of credit in this state and whose letter of credit operations are regulated and examined by a federal or state agency.

B. The letter of credit shall be worded as provided in 40 CFR 280.99(b), except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. 40 CFR 280.99(b) amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.

C. Owners and operators who use a letter of credit to satisfy the requirements of R18-12-303 shall also establish a standby trust fund when the letter of credit is acquired. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the Director shall be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the Director under R18-12-322. This standby trust fund shall meet the requirements specified in R18-12-313.

D. The letter of credit shall be irrevocable with a term specified by the issuing institution. The letter of credit shall provide that credit be automatically renewed for the same term as the original term unless, at least 120 days before the current expiration date, the issuing institution notifies the owner or operator by certified mail of its decision not to renew the letter of credit. Under the terms of the letter of credit, the 120 days shall begin on the date when the owner or operator receives the notice, as evidenced by the return receipt.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-310. Certificate of Deposit

A. Owners and operators may satisfy the corrective action requirements, but not the 3rd-party compensation requirements, of R18-12-303 by obtaining an irrevocable certificate of deposit and preparing a Certification and Agreement that conforms to the requirements of this Section. The issuing institution shall meet all of the following:
1. Has the authority to issue certificates of deposit in Arizona,
2. Certificate of deposit operations are regulated and examined by a federal or state agency,
3. Is a member of the Federal Deposit Insurance Corporation.

B. The certificate of deposit may be used for the full required amount of corrective action coverage. Alternatively, it may be used for part of the required amount of corrective action coverage when used in combination with other mechanisms allowed under this Article which provide the remaining amount of coverage. In all cases, the full required amount of 3rd-party compensation coverage shall be met with another mechanism or mechanisms allowed under this Article.

C. Owners and operators who use a certificate of deposit to meet the corrective action requirements of R18-12-303 shall comply with all of the following:
1. The certificate of deposit document and the records of the issuing institution shall designate the Department as the sole payee. The original certificate of deposit, a blank signature card, and the certification and agreement executed in accordance with subsection (D) shall be submitted to the Department. The Department shall return the signature card to the issuing institution with the current Director's signature and the signature of an alternative person designated by the Director affixed;
2. If the issuing institution is unwilling or unable to prepare a certificate of deposit made payable only to the Department, the owner or operator and the issuing institution shall prepare and execute an assignment in the presence of a notary public with a copy provided to the issuing institution which allows only the Department access to the certificate of deposit;
3. The owner or operator's Social Security or Tax Identification number shall appear on the certificate of deposit;
4. All interest accrued on the certificate of deposit shall be applied back to the certificate of deposit;
5. Upon verification by the Department that the requirements of this Article are met using another mechanism or combination of mechanisms, the owner or operator may submit a written request to the Director for release of the certificate of deposit. Within 30 days of receipt of the request from the owner or operator under this subsection, the Director shall release to the owner or operator the certificate of deposit and the certification and agreement.

D. The owner or operator shall prepare, execute, and submit to the Department and the issuing institution a Certification and Agreement which shall be worded as shown in Appendix A except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

E. The certificate of deposit shall be irrevocable with an automatically renewable term, the length of which may be specified by owners and operators. The initial term and the automatic renewal term shall be stated on the certificate of deposit.

F. The Department may present for payment any certificate of deposit to the issuing institution and receive cash if either of the following occur:
1. The owner or operator reports a release in accordance with A.R.S. § 49-1004 from an underground storage tank covered by the certificate of deposit and makes a written request to the Director for payment of corrective action expenses required under A.R.S. § 49-1005. If a request for payment is made the owner or operator shall submit an invoice for corrective action services which have been performed as required under A.R.S. § 49-1005;
2. The conditions of R18-12-322(B)(1) exist.

G. The Department shall pay, from funds received from cashing the certificate of deposit, corrective action expenses if they are determined to be reasonable. Corrective action expenses shall be considered reasonable if they meet the criteria for reasonableness of cost under R18-12-605.

H. The Director shall, within 30 days of the date on which the certificate of deposit is cashed, return to the owner or operator any funds received from cashing the certificate of deposit

which are in excess of the amount of financial responsibility being demonstrated by the certificate of deposit. The Director shall place funds received from the certificate of deposit which have not been used to meet the expenses payable under subsection (G) in an UST Assurance Fund until such time as they are needed. If upon completion of all corrective action, as evidenced by a corrective action closure letter issued by the Department, the costs incurred are less than the amount received from cashing of the certificate of deposit, any excess funds remaining after final payment shall be refunded to the owner or operator within 30 days of receipt by the Department of a written request for refund.

Historical Note

Adopted effective July 30, 1996 (Supp. 96-3). Amended effective July 30, 1996 (Supp. 96-3).

Appendix A. Certification and Agreement - Certificate of Deposit

CERTIFICATION AND AGREEMENT

CERTIFICATE OF DEPOSIT

_____

[Name of owner or operator]

_____

[Address of owner or operator]

a _____

[Insert "corporation," "partnership," "association," or "proprietorship"]

Hereby certifies that it has elected to use a Certificate of Deposit in accordance with R18-12-310 to cover all or part of its financial responsibility requirement for taking corrective action under Arizona Revised Statutes Title 49, Chapter 6, § 49-1006 as follows:

Section 1. This coverage is provided under Certificate of Deposit [Certificate of Deposit number] payable to the Department of Environmental Quality issued by [Name and address of issuing institution], [insert "Incorporated in the state of _____" or "a national bank"] for the period from [/ /19], through [/ /19] and is automatically renewable for a term of [Insert number of months] months in the amount of $_____. Both the Certificate of Deposit and the issuing institution meet the requirements of R18-12-310.

Section 2. The original of the Certificate of Deposit has been delivered to the Department of Environmental Quality, hereinafter known as the Department, to be held by the Department, along with this agreement, as proof of [Insert owner or operator]'s financial responsibility for taking corrective action caused by [Insert either "sudden accidental releases" or "nonsudden accidental releases" or "accidental releases"; if coverage is different for different tanks or locations, indicate the type of coverage applicable to each tank or location] arising from operating the underground storage tanks(s) identified in Section 3 of this agreement. The amounts of financial assurance coverage provided by this Certificate of Deposit are:

[insert the dollar amount of "each occurrence" and "annual aggregate" provided by the Certificate of Deposit; if the amount of coverage is different for different types of coverage or for different underground storage tanks or locations, indicate the amount of coverage for each type of coverage and/or for each underground storage tank or location].

Section 3. The following underground storage tanks are covered by the Certificate of Deposit:

[List the number of tanks at each facility and the name(s) and address(es) of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the notification submitted pursuant to A.R.S. § 49-1002, and the name and address of the facility.]

Section 4. [Insert owner or operator] is held firmly unto the state of Arizona in the amount of those sums for those periods of time as set forth herein, until this Certification and Agreement is amended or renewed or released in accordance with R18-12-310. The Certificate of Deposit or any funds resulting from cashing of the Certificate of Deposit shall be maintained or disbursed only in accordance with the provisions of AAC R18-12-310.

Section 5. This Agreement shall remain in force during the term of the Certificate of Deposit and during any period of time prior to full expenditure or release of funds received from cashing of the Certificate of Deposit. [Insert owner or operator] shall notify the Department in writing immediately of any event which may impair this agreement. If the Department receives such notice, or otherwise has reason to believe that this agreement has been materially impaired, the Department may unilaterally amend the terms and conditions of this agreement to rectify any such impairment.

Section 6. The institution issuing the Certificate of Deposit is not a party to this agreement. Its obligations are set forth in its Certificate of Deposit. Nothing in this agreement diminishes or qualifies the issuing institution's obligations under its Certificate of Deposit.

The provisions hereof shall bind and inure to the benefit of the parties hereto and their successors and assigns.

Signed and dated this _____day of _____, 19__

Date: _____

[Typed name of owner or operator]

BY:_____

Title: _____

Appendix A. Certification and Agreement - Certificate of Deposit *Continued*

NOTARIZATION OF SIGNER'S ACKNOWLEDGEMENT

STATE _____)

_____) SS.

COUNTY OF_____)

The foregoing instrument was acknowledged before me this

_____day of _____, 19__, by _____

as _____of _____

_____

NOTARY PUBLIC

My Commission Expires:

_____

APPROVED:

STATE OF ARIZONA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Date:_____ By:_____

_____Director, ADEQ

Historical Note:
Appendix A adopted effective July 30, 1996 (Supp. 96-3).

R18-12-311. State Fund or Other State Assurance

A. Owners and operators may satisfy the requirements of R18-12-303 by obtaining coverage under an approved state fund which conforms to the requirements of this Section. The state fund shall be approved by a U.S. EPA Regional Administrator as a full or partial mechanism which may be used to meet the requirements of 40 CFR 280.93. 40 CFR 280.93 amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and on file with the Department and the Office of the Secretary of State. The state fund may be used to meet the requirements of this Article only as follows:

1. For facilities within this state which are eligible for coverage;
2. For the amounts and types of coverage approved by the U.S. EPA Regional Administrator;
3. Until such approval is withdrawn by the EPA Administrator and owners and operators are notified, in accordance with R18-12-319(A)(2), that the fund may no longer be used for compliance with financial responsibility requirements.

B. Owners and operators shall submit to the Department, in accordance with R18-12-301(C), a copy of the form prescribed by the Department, completed by owners and operators which sets forth the nature of the state's assumption of responsibility. The form shall include, or have attached to it, the following information:

1. The owner or operator's name and address,
2. The facility's name and address,
3. The amount of funds for corrective action resulting from sudden accidental releases or non-sudden accidental releases or accidental releases which are assured by the state,
4. If only certain tanks at a facility are assured by the state, those tanks which are assured by the state shall be identified by the tank identification number.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-312. Trust Fund

A. Owners and operators may satisfy the requirements of R18-12-303 by establishing a trust fund that conforms to the requirements of this Section. The trustee shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

B. The wording of the trust agreement shall be identical to the wording specified in 40 CFR 280.103(b)(1), and shall be accompanied by a formal certification of acknowledgment as specified in 40 CFR 280.103(b)(2). 40 CFR 280.103(b)(1) and (2), amended as of July 1, 1994 (and no future amendments or editions), are incorporated by reference and are on file with the Department and the Office of the Secretary of State.

C. The trust fund, when established, shall be funded for the full required amount of coverage, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining required coverage.

D. If the value of the trust fund is greater than the required amount of coverage, the owner or operator may submit a written request to the Director for release of the excess.

E. If other financial assurance as specified in the Sections R18-12-305 through R18-12-311 and R18-12-314 through R18-12-317 is substituted for all or part of the trust fund, the owner or operator may submit a written request to the Director for release of the excess.

F. Within 60 days after receiving a request from the owner or operator for release of funds as specified in subsections (D) or (E) the Director shall instruct the trustee to release to the owner or operator such funds as the Director specifies in writing.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-313. Standby Trust Fund

A. Owners and operators using any one of the mechanisms authorized by R18-12-306, R18-12-308, and R18-12-309 shall establish a standby trust fund when the mechanism is acquired. The trustee of the standby trust fund shall be an entity that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal agency or an agency of the state in which the fund is established.

B. The standby trust agreement shall be worded as provided in 40 CFR 280.103(b) (1) and 40 CFR 280.103(b)(2), except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

C. The Director shall instruct the trustee to refund the balance of the standby trust fund to the provider of financial assurance if the Director determines that no additional corrective action costs or 3rd-party liability claims will occur as a result of a release covered by the financial assurance mechanism for which the standby trust fund was established.

D. Owners and operators may establish one standby trust fund as the depository mechanism for all funds assured in compliance with this Article.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).

R18-12-314. Local Government Bond Rating Test

A. General purpose local government owners and operators or a local government serving as a guarantor that has the legal authority to issue general obligation bonds may satisfy the requirements of R18-12-303 by having a currently outstanding issue or issues of general obligation bonds of $1 million or more, excluding refunded, with a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB. If a local government has multiple outstanding issues, or if a local government's bonds are rated by both Moody's and Standard and Poor's, the lowest rating shall be used to determine eligibility. Bonds that are backed by credit enhancement other than municipal bond insurance may not be considered in determining the amount of applicable bonds outstanding.

B. Local government owners and operators or a local government serving as a guarantor that is not a general purpose local government and does not have the legal authority to issue general obligation bonds may satisfy the requirements of R18-12-303 by having a currently outstanding issue or issues of revenue bonds of $1 million or more, excluding refunded issues and by also having a Moody's rating of Aaa, Aa, A, or Baa, or a Standard & Poor's rating of AAA, AA, A, or BBB as the lowest rating for any rated revenue bond issued by the local government. If bonds are rated by both Moody's and Standard & Poor's, the lower rating for each bond shall be used to determine eligibility. Bonds that are backed by credit enhancement may not be considered in determining the amount of applicable bonds outstanding.

C. Local government owners and operators, or a guarantor, or both, shall maintain a copy of its bond rating published within the last 12 months by Moody's or Standard & Poor's.

D. To demonstrate that it meets the local government bond rating test, the chief financial officer of a general purpose local government owner or operator, or the guarantor, or both, shall sign a letter worded exactly as provided in 40 CFR 280.104(d), except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. 40 CFR 280.104(d), amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.

E. To demonstrate that it meets the local government bond rating test, the chief financial officer of a local government owner and operator, or the guarantor, or both, shall sign a letter worded exactly as provided in 40 CFR 280.104(e), except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. 40 CFR 280.104(e), amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and on file with the Department and the Office of the Secretary of State.

F. The Director may require reports of financial condition at any time from local government owners and operators, or the local government guarantor, or both. If the Director finds, on the basis of such reports or other information, that the local government owner or operator, or the guarantor, or both, no longer meets the local government bond rating test requirements of this Section, the local government owner or operator shall obtain alternative coverage within 30 days after notification of such a finding.

G. If local government owners and operators using the bond rating test to provide financial assurance finds that it no longer meets the bond rating test requirements, the local government owner or operator shall obtain alternative coverage within 150 days of the change in status.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-315. Local Government Financial Test

A. Local government owners and operators may satisfy the requirements of R18-12-303 by passing the financial test specified in this Section. To be eligible to use the financial test, local government owners and operators shall have the ability and authority to assess and levy taxes or to freely establish fees and charges. To pass the local government financial test, owners and operators shall meet the criteria of subsections (B)(2) and (3) based on year-end financial statements for the latest completed fiscal year.

B. To pass the local government financial test, owners and operators shall meet all of the following:

1. Local government owners and operators shall have the following information available, as shown in the year-end financial statements for the latest completed fiscal year:
   a. Total revenues: consists of the sum of general fund operating and non-operating revenues including net local taxes, licenses and permits, fines and forfeitures, revenues from use of money and property, charges for services, investment earnings, sales such as property or publications, intergovernmental revenues whether or not restricted, and total revenues from all other governmental funds including enterprise, debt service, capital projects, and special reve-

nues, but excluding revenues to funds held in a trust or agency capacity. For purposes of this test, the calculation of total revenues shall exclude all interfund transfers between funds under the direct control of the local government using the financial test, liquidation of investments, and issuance of debt;

b. Total expenditures: consists of the sum of general fund operating and non-operating expenditures including public safety, public utilities, transportation, public works, environmental protection, cultural and recreational, community development, revenue sharing, employee benefits and compensation, office management, planning and zoning, capital projects, interest payments on debt, payments for retirement of debt principal, and total expenditures from all other governmental funds including enterprise, debt service, capital projects, and special revenues. For purposes of this test, the calculation of total expenditures shall exclude all interfund transfers between funds under the direct control of the local government using the financial test;

c. Local revenues: consists of total revenues, as defined in subsection (B)(1)(a), minus the sum of all transfers from other governmental entities, including all monies received from federal, state, or local government sources;

d. Debt service: consists of the sum of all interest and principal payments on all long-term credit obligations and all interest-bearing short-term credit obligations. It includes interest and principal payments on general obligation bonds, revenue bonds, notes, mortgages, judgments, and interest bearing warrants. It excludes payments on non-interest-bearing short-term obligations, interfund obligations, amounts owed in a trust or agency capacity, and advances and contingent loans from other governments;

e. Total funds: consists of the sum of cash and investment securities from all funds, including general, enterprise, debt service, capital projects, and special revenue funds, but excluding employee retirement funds, at the end of the local government's financial reporting year. It includes federal securities, federal agency securities, state and local government securities, and other securities such as bonds, notes, and mortgages. For purposes of this test, the calculation of total funds shall exclude agency funds, private trust funds, accounts receivable, value of real property, and other non-security assets.

2. The local government's year-end financial statements, if independently audited, cannot include an adverse auditor's opinion or a disclaimer of opinion. The local government cannot have outstanding issues of general obligation or revenue bonds that are rated as less than investment grade.

3. Local government owners and operators shall have a letter signed by the chief financial officer worded as specified in subsection (C).

C. To demonstrate that it meets the financial test under subsection (B), the chief financial officer of the local government owner or operator shall sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as provided in 40 CFR 280.105(c), except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. 40 CFR 280.105(c) amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.

D. If local government owners and operators using the test to provide financial assurance find that it no longer meets the requirements of the financial test based on the year-end financial statements, the owner or operator shall obtain alternative coverage within 150 days of the end of the year for which financial statements have been prepared.

E. The Director may require reports of financial condition at any time from local government owners and operators. If the Director finds, on the basis of such reports or other information, that the local government owner or operator no longer meets the financial test requirements of subsections (B) and (C), the owner or operator shall obtain alternate coverage within 30 days after notification of such a finding.

F. If the local government owner or operator fails to obtain alternate assurance within 150 days of finding that it no longer meets the requirements of the financial test based on the year-end financial statements or within 30 days of notification by the Director that it no longer meets the requirements of the financial test, the owner or operator shall notify the Director of such failure within 10 days.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-316. Local Government Guarantee

A. Local government owners and operators may satisfy the requirements of R18-12-303 by obtaining a guarantee that conforms to the requirements of this Section. The guarantor shall be either the state in which the local government owner or operator is located or a local government having a "substantial governmental relationship" with the owner or operator and issuing the guarantee as an act incident to that relationship. A local government acting as the guarantor shall meet the requirements of one of the following:

1. Demonstrate that it meets the bond rating test requirements of R18-12-314 and deliver a copy of the chief financial officer's letter as contained in R18-12-314(D) or R18-12-314(E) to the local government owner or operator;
2. Demonstrate that it meets the financial test requirements of R18-12-315 and deliver a copy of the chief financial officer's letter as contained in R18-12-315(C) to the local government owner or operator;
3. Demonstrate that it meets the local government fund requirements of R18-12-317(A)(1), R18-12-317(A)(2) or R18-12-317(A)(3) and deliver a copy of the chief financial officer's letter as contained in R18-12-317(B) to the local government owner or operator.

B. If the local government guarantor is unable to demonstrate financial assurance under R18-12-314, R18-12-315, R18-12-317(A)(1), R18-12-317(A)(2) or R18-12-317(A)(3), at the end of the financial reporting year, the guarantor shall send by certified mail, before cancellation or non-renewal of the guarantee, notice to the owner or operator. The guarantee will terminate no less than 120 days after the date the owner or operator receives the notification, as evidenced by the return receipt. The owner or operator shall obtain alternative coverage as specified in R18-12-318.

C. The guarantee agreement shall be worded as specified in subsection (D) or (E), depending on which of the following alternative guarantee arrangements is selected:

1. If, in the default or incapacity of the owner or operator, the guarantor guarantees to fund a standby trust as

directed by the Director, the guarantee shall be worded as specified in subsection (D);

2. If, in the default or incapacity of the owner or operator, the guarantor guarantees to make payments as directed by the Director for taking corrective action or compensating 3rd parties for bodily injury and property damage, the guarantee shall be worded as specified in subsection (E).

D. If the guarantor is a state, the "local government guarantee with standby trust made by a state" shall be worded exactly as provided in 40 CFR 280.106(d), except that instructions in brackets are to be replaced with relevant information and the brackets deleted. 40 CFR 280.106(d) amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State. If the guarantor is a local government, the "local government guarantee with standby trust made by a local government" shall be worded exactly as provided in 40 CFR 280.106(d), except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

E. If the guarantor is a state, the "local government guarantee without standby trust made by a state" shall be worded exactly as provided in 40 CFR 280.106(e), except that instructions in brackets are to be replaced with relevant information and the brackets deleted. 40 CFR 280.106(e) amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and on file with the Department and the Office of the Secretary of State. If the guarantor is a local government, the "local government guarantee without standby trust made by a local government" shall be worded exactly as provided in 40 CFR 280.106(e), except that instructions in brackets are to be replaced with relevant information and the brackets deleted.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-317. Local Government Fund

A. Local government owners and operators may satisfy the requirements of R18-12-303 by establishing a dedicated fund account that conforms to the requirements of this Section. Except as specified in subsection (A)(2), a dedicated fund may not be commingled with other funds or otherwise used in normal operations. A dedicated fund shall be considered eligible if it meets one of the following requirements:

1. The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order to pay for taking corrective action and for compensating 3rd parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks and is funded for the full amount of coverage required under R18-12-303, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining coverage;
2. The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance, or order as a contingency fund for general emergencies, including taking corrective action and compensating 3rd parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks, and is funded for five times the full amount of coverage required under R18-12-303, or funded for part of the required amount of coverage and used in combination with other mechanisms that provide the remaining coverage. If the fund is funded for less than five times the amount of coverage required under R18-12-303, the amount of financial responsibility demonstrated by the fund may not exceed 1/5 the amount in the fund;
3. The fund is dedicated by state constitutional provision, or local government statute, charter, ordinance or order to pay for taking corrective action and for compensating 3rd parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks. A payment is made to the fund once every year for seven years until the fund is fully-funded. This seven-year period is referred to as the "pay-in-period." The amount of each payment shall be determined by the following formula:

$$\frac{TF - CF}{Y}$$

where TF is the total required financial assurance for the owner or operator, CF is the current amount in the fund, and Y is the number of years remaining in the pay-in-period, and one of the following is met:

a. The local government owner or operator has available bonding authority, approved through voter referendum, if such approval is necessary prior to the issuance of bonds, for an amount equal to the difference between the required amount of coverage and the amount held in the dedicated fund. This bonding authority shall be available for taking corrective action and for compensating 3rd parties for bodily injury and property damage caused by accidental releases arising from the operation of petroleum underground storage tanks;
b. The local government owner or operator has a letter signed by the state attorney general stating that the use of the bonding authority will not increase the local government's debt beyond the legal debt ceilings established by the relevant state laws. The letter shall also state that prior voter approval is not necessary before use of the bonding authority.

B. To demonstrate that it meets the requirements of the local government fund, the chief financial officer of the local government owner or operator, or guarantor, or both, shall sign a letter worded exactly as provided in 40 CFR 280.107(d), except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted. 40 CFR 280.107(d) amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-318. Substitution of Financial Assurance Mechanisms by Owner and Operator

A. Owners and operators may substitute any alternate financial assurance mechanisms as specified in R18-12-305 through R18-12-312 and R18-12-314 through R18-12-317, if at all times owners and operators maintain an effective financial assurance mechanism or combination of mechanisms that satisfies the requirements of R18-12-303.

B. After obtaining alternate financial assurance as specified in R18-12-305 through R18-12-312 and R18-12-314 through R18-12-317, an owner or operator may cancel a financial assurance mechanism by providing notice to the provider of financial assurance.

C. Upon replacement of any financial assurance mechanism, the owner or operator shall forward evidence of financial responsibility and certification of financial responsibility to the Department as required in R18-12-301(C).

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-319. Cancellation or Nonrenewal by a Provider of Financial Assurance

A. Except as otherwise provided, a provider of financial assurance may cancel or fail to renew an assurance mechanism by sending a notice of termination by certified mail to the owner or operator in accordance with one of the following:
1. Termination of a local government guarantee, guarantee, surety bond, or letter of credit shall not occur until 120 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt;
2. Termination of insurance or risk retention group coverage, or state-funded assurance, except for non-payment of premium or misrepresentation by the insured, shall not occur until 60 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt. Termination for non-payment of premium or misrepresentation by the insured shall not occur until a minimum of 10 days after the date on which the owner or operator receives the notice of termination, as evidenced by the return receipt.

B. If a provider of financial responsibility cancels or fails to renew for reasons other than incapacity of the provider as specified in R18-12-324, owners and operators shall obtain alternate coverage as specified in this Article within 60 days after receipt of the notice of termination. If owners and operators fails to obtain alternate coverage within 60 days after receipt of the notice of termination, owners and operators shall notify the Director of such failure and submit all of the following:
1. The name and address of the provider of financial assurance,
2. The effective date of termination,
3. The evidence of the financial assurance mechanism subject to the termination submitted in accordance with R18-12-301.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).

R18-12-320. Reporting by Owner and Operator

A. Owners and operators shall submit documented evidence of financial responsibility as described under R18-12-301(C) to the Director according to any of the following:
1. Within 30 days after owners and operators identify a release from an underground storage tank required to be reported under A.R.S. § 49-1004 and the rules promulgated thereunder.
2. If owners and operators fail to obtain alternate coverage as required by R18-12-319(B), within 30 days after the owner or operator receives notice of any one of the following:
   a. Commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a provider of financial assurance as a debtor;
   b. Suspension or revocation of the authority of a provider of financial assurance to issue a financial assurance mechanism;
   c. Failure of a guarantor to meet the requirements of the financial test;
   d. Other incapacity of a provider of financial assurance.
3. As required by R18-12-305(G) and R18-12-319(B).

B. Owners and operators shall include in the initial or updated Notification Form a certification of compliance with the financial responsibility requirements of this Article.

C. The Director may, at any time, require owners and operators to submit evidence of financial assurance or other information relevant to compliance with R18-12-301 through R18-12-325.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective July 30, 1996 (Supp. 96-3).

R18-12-321. Repealed

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Repealed effective July 30, 1996 (Supp. 96-3).

R18-12-322. Drawing on Financial Assurance Mechanisms

A. Except as provided in subsection (D), the Director shall require the guarantor, surety, or institution issuing a letter of credit to place the amount of funds stipulated by the Director, up to the limit of funds provided by the financial assurance mechanism, into the standby trust if either of the following circumstances exist:
1. Occurrence of both of the following circumstances:
   a. The owner or operator fails to establish alternate financial assurance within 60 days after receiving notice of cancellation of the guarantee, surety bond, letter of credit, or, as applicable, other financial assurance mechanism;
   b. The Director determines or has reason to believe that a release from an underground storage tank covered by the financial assurance mechanism has occurred and so notifies the owner or operator, or owners and operators notify the Director pursuant to A.R.S. § 49-1004 and the rules promulgated thereunder of a release from an underground storage tank covered by the financial assurance mechanism.
2. The conditions of subsections (B)(1), (2), or (3) are satisfied.

B. The Director may draw on a certificate of deposit or standby trust fund when any of the following occurs:
1. The Director makes a final determination that a release has occurred and immediate or long-term corrective action for the release is needed, and owners and operators, after appropriate notice and opportunity to comply, have not conducted corrective action as required under A.R.S. § 49-1005 and the rules promulgated thereunder;
2. The Director receives a certification from the owner or operator and the 3rd-party liability claimant and from attorneys representing the owner or operator and the 3rd-party liability claimant that a 3rd-party liability claim should be paid. The certification shall be worded as provided in 40 CFR 280.112(b)(2)(i), except that instructions in brackets are to be replaced with the relevant information and the brackets deleted. 40 CFR 280.112(b)(2)(i), amended as of July 1, 1994 (and no future amendments or editions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State;
3. The Director receives a valid final court order establishing a judgment against the owner or operator for bodily injury or property damage caused by an accidental release from an underground storage tank covered by financial assurance under this Article and the Director determines that the owner or operator has not satisfied the judgment.

C. If the Director determines that the amount of corrective action costs and 3rd-party liability claims eligible for payment under subsection (B) may exceed the balance of the certificate of deposit or standby trust fund and the obligation of the provider of financial assurance, the 1st priority for payment shall be corrective action costs necessary to protect human health and the environment. The Director shall pay 3rd-party liability

claims in the order in which the Director receives certifications under subsection (B)(2) and valid court orders under subsection (B)(3).

D. A governmental entity acting as guarantor under R18-12-316(E), the local government guarantee without standby trust, shall make payments as directed by the Director under the circumstances described in subsections (A), (B), and (C).

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-323. Release from Financial Responsibility Requirements
Owners and operators are no longer required to maintain financial responsibility under this Article for an underground storage tank after the tank has completed permanent closure or change-in-service in accordance with the requirements of A.R.S. § 49-1008 and the rules promulgated thereunder or, if corrective action is required, after corrective action has been completed and the tank has completed permanent closure or change-in-service under A.R.S § 49-1008 and the rules promulgated thereunder.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-324. Bankruptcy or Other Incapacity of Owner, Operator, or Provider of Financial Assurance

A. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming an owner or operator as debtor, owners and operators shall notify the Director by certified mail of such commencement and submit the appropriate forms listed in R18-12-301 documenting current financial responsibility.

B. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing financial assurance as debtor, such guarantor shall notify the owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in R18-12-306.

C. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a local government owner or operator as debtor, the local government owner or operator shall notify the Director by certified mail of such commencement and submit the appropriate forms listed in R18-12-301 documenting current financial responsibility.

D. Within 10 days after commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming a guarantor providing a local government financial assurance as debtor, such guarantor shall notify the local government owner or operator by certified mail of such commencement as required under the terms of the guarantee specified in R18-12-316.

E. Owners and operators who obtain financial assurance by a mechanism other than the financial test of self-insurance will be deemed to be without the required financial assurance in the event of a bankruptcy or incapacity of its provider of financial assurance, or a suspension or revocation of the authority of the provider of financial assurance to issue a guarantee, insurance policy, risk retention group coverage policy, surety bond, letter of credit, or certificate of deposit. Owners and operators shall obtain alternate financial assurance as specified in this Article within 30 days after receiving notice of such an event. If owners and operators do not obtain alternate coverage within 30 days after such notification, owners and operators shall notify the Director.

F. Within 30 days after receipt of notification that a state fund or other state assurance has become incapable of paying for assured corrective action costs or 3rd-party liability compensation, owners and operators shall obtain alternate financial assurance.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

R18-12-325. Replenishment of Guarantees, Letters of Credit, or Surety Bonds

A. If a standby trust is funded upon the instruction of the Director with funds drawn from a guarantee, local government guarantee with standby trust, letter of credit, or surety bond, and if the amount in the standby trust is reduced below the full amount of coverage required, owners and operators shall by the anniversary date of the financial mechanism from which the funds were drawn do either of the following:

1. Replenish the value of financial assurance to equal the full amount of coverage required;
2. Acquire another financial assurance mechanism for the amount by which funds in the standby trust have been reduced.

B. For purposes of this Section, the full amount of coverage required is the amount of coverage to be provided under R18-12-303. If a combination of mechanisms was used to provide the assurance funds which were drawn upon, replenishment shall occur by the earliest anniversary date among the mechanisms.

Historical Note
Adopted effective July 30, 1996 (Supp. 96-3).

ARTICLE 4. UNDERGROUND STORAGE TANK EXCISE TAX

R18-12-401. Repealed

Historical Note
Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently adopted with changes effective December 26, 1991 (Supp. 91-4). Repealed effective July 30, 1996 (Supp. 96-3).

R18-12-402. Duties and responsibilities of a supplier; certain regulated substances
The duties and responsibilities of a supplier with respect to a regulated substance that is refined, manufactured, produced, compounded, or blended in this state, or imported into this state by the supplier, as described by this Article are imposed only to the extent that the regulated substance is also aviation fuel, diesel, or motor vehicle fuel.

Historical Note
Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently adopted with changes effective December 26, 1991 (Supp. 91-4).

R18-12-403. Periodic payments; deductions

A. On or before the 25th day of each month, a supplier shall pay to the Director of the Department of Transportation an amount

equal to one cent for each gallon of regulated substance which is refined, manufactured, produced, compounded, or blended in this state or imported into this state by the supplier during the preceding month.

B. A supplier may deduct from the payments required to be made under subsection (A) either or both of the following amounts:
1. An amount equal to the product of one cent multiplied by the number of gallons of regulated substance sold or delivered to a person to whom an exemption certificate has been issued pursuant to R18-12-410(C) or to whom an exemption certificate number has been assigned pursuant to R18-12-410(D) during the month for which the supplier is making a payment.
2. An amount equal to the sum of the amounts of refunds approved by the Department under R18-12-409 and submitted to the Department of Transportation during the month for which the supplier is making a payment.

Historical Note
Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently adopted effective December 26, 1991 (Supp. 91-4).

R18-12-404. Reporting requirements for suppliers

A. On or before the 25th day of each month, a supplier shall submit a monthly summary report on forms prescribed by the Department pursuant to subsection (B) indicating all gallons acquired and sold by that supplier during the preceding month. A supplier shall submit a monthly summary report even if the supplier is not making a payment as described in R18-12-403. The monthly report shall be accompanied by schedules prescribed for the purpose of obtaining detailed information about the gallons acquired and sold by that supplier. The forms and schedules shall be prescribed by the Department and may include forms and schedules prescribed by the Department of Transportation for the administration of the motor vehicle fuel tax. A written or computerized report setting forth all information required on the prescribed forms and schedules will be accepted in lieu of a report on the prescribed form. The report and schedules shall contain the following information:
1. The number of gallons in the supplier's inventory at the beginning of the reporting period.
2. The number of gallons brought into Arizona during the report period for which the supplier is reporting and for which the supplier is paying tax, including date shipped, the name of the person from whom the regulated substance was acquired, the shipping point, manifest or pipeline shipment number, Arizona destination, and type of regulated substance.
3. The number of gallons blended or compounded in Arizona during the report period that the supplier is reporting and on which the supplier is paying tax, including date blended or compounded, and the types of constituent substances being blended or compounded.
4. The number of gallons which are tax due.
5. The number of gallons acquired tax paid during the report period including date shipped, shipping point, name and account number of supplier, invoice number, Arizona destination, and type of regulated substance.
6. The total number of gallons that are tax due and tax paid.
7. The number of gallons sold tax paid to suppliers during the report period, including date shipped, shipping point, name and account number of supplier, invoice number, Arizona destination, and type of regulated substance.
8. The number of gallons sold as tax exempt sales during the report period, including date sold, name of person claiming exempt sale, delivery address of regulated substance sold, exemption certificate number utilized for sale, invoice number, and type of regulated substance.
9. The number of gallons sold to underground storage tank owners during the report period, including total gallons for each type of regulated substance sold.
10. The number of gallons sold exported to destinations outside of Arizona during the report period including date sold, Arizona shipping point, name of purchaser outside of Arizona, invoice number, out-of-state destination and type of regulated substance.
11. The number of gallons of regulated substance sold or exported.
12. The ending book inventory indicating the gallon difference between the number of gallons received tax due and tax paid and the number of gallons sold or exported.
13. The ending physical inventory indicating the number of gallons in the person's inventory at the end of the report period including location of Arizona storage.
14. The gallon difference between ending book inventory and ending physical inventory.

B. The monthly report described in subsection (A) is considered to be the return form required by A.R.S. § 28-1599.45(D).

C. On or before March 31 of any year, each supplier shall submit to the Department of Transportation an annual report indicating the name and owner identification number of each underground storage tank owner or operator to whom the supplier made a sale during the preceding calendar year and the total number of gallons sold annually to that owner or operator by type of regulated substance. The Department of Transportation, for good cause, may extend the time for making the annual report required by this subsection.

Historical Note
Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently adopted with changes effective December 26, 1991 (Supp. 91-4).

R18-12-405. Invoice requirements for suppliers

A supplier shall provide the following information on the invoice for each sale of a regulated substance:
1. The supplier identification number assigned to that supplier by the Department of Transportation.
2. Except as otherwise provided in R18-12-410(E), the underground storage tank excise tax associated with that sale, stated as a separate item.

Historical Note
Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently adopted effective December

26, 1991 (Supp. 91-4).

R18-12-406. Reports and returns, net gallons required to be indicated

All reports and returns submitted pursuant to this Article shall indicate net gallons in any instance where the number of gallons of regulated substances are required to be reported.

Historical Note

Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently adopted effective December 26, 1991 (Supp. 91-4).

R18-12-407. Payment of tax; annual return

A. A taxpayer shall pay the tax as measured by the quantity of regulated substances placed in an underground storage tank owned or operated by the taxpayer in any calendar year. The tax shall be paid at the rate of one cent for each gallon of regulated substance.

B. The tax is due and payable annually on or before March 31 for the preceding calendar year. The tax is delinquent if it is not postmarked on or before that date or if it is not received by the Department on or before March 31 for taxpayers electing to file in person.

C. At the time that the tax is paid, the taxpayer shall prepare and file with the tax an annual return on a form prescribed by the Director. The taxpayer shall provide all of the following information:

1. The owner identification number of the owner of the tank.
2. The taxpayer's name and address, including street number and name, post office box, city, state, county, and zip code.
3. The time period covered by the return.
4. The total number of storage facilities reported on by the return.
5. The types of regulated substances placed in underground storage tanks during the calendar year covered by the return.
6. The total number of gallons of regulated substances, by type and by facility identification number, placed in underground storage tanks during the calendar year covered by the return.
7. The supplier identification number of each supplier from whom the taxpayer received regulated substances which were placed in underground storage tanks.
8. The tax due, by type of regulated substance.
9. The tax paid, by type of regulated substance.
10. Any credits or refunds claimed, by type of regulated substance and by exemption certificate number.
11. The total tax due.

D. The taxpayer shall sign a sworn statement or otherwise certify, under penalty of perjury, that the information contained in the return is true, complete, and correct according to the best belief and knowledge of the taxpayer filing the report.

Historical Note

Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently with changes adopted effective December 26, 1991 (Supp. 91-4).

R18-12-408. Affidavit of tax responsibility

The tax shall be collected from the owner of an underground storage tank unless the owner and the operator of the underground storage tank file a notarized affidavit with the Department designating the operator as primarily responsible for the tax.

Historical Note

Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently adopted effective December 26, 1991 (Supp. 91-4).

R18-12-409. Refunds

A. Any person who pays the tax but is not liable for the tax under A.R.S. Title 49, Chapter 6 may claim a refund of the tax paid.

B. A claim for a refund shall be submitted on forms prescribed by the Director. A person claiming a refund shall provide the following information:

1. The name, address and telephone number of the person claiming the refund.
2. The facility name.
3. The facility location.
4. The supplier identification number.
5. The type of regulated substances.
6. The number of gallons of regulated substances.
7. The date of the transaction for which the refund is claimed or the time period covered if the claim involves more than one transaction.
8. The reason justifying the payment of a refund.
9. The amount of tax paid and supporting documentation for the amount of refund claimed, including an invoice showing the tax paid as required by R18-12-405.

C. The person claiming the refund shall sign a sworn statement or otherwise certify, under penalty of perjury, that the information contained in the return is true, complete and correct.

D. If the Department determines that a person claiming a refund is entitled to the refund, the Department shall issue a refund payment or a letter of credit. A person who has been denied a refund by the Department may request a hearing on the denial within 30 days after receiving notice of the denial. The hearing shall be conducted pursuant to R18-1-201 through R18-1-219.

E. Any person eligible to claim a refund of the tax may assign the claim to the person from whom the regulated substance was purchased. The assignee of the claim may claim the refund if the assignor of the claim certifies in writing to the assignee on forms prescribed by the Director that the assignor relinquishes all interest in the refund and will not also claim a refund from the Director. A copy of an invoice corresponding to the sale for which an assignment of a refund is sought shall accompany any assignment.

Historical Note

Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. §

49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently with changes adopted effective December 26, 1991 (Supp. 91-4).

R18-12-410. Exemption certificates

A. Except as otherwise provided in subsection (D), any person who has claimed and has been awarded a refund of tax paid may apply for and be issued an exemption certificate as provided in this Section.

B. An application for an exemption certificate shall be submitted on a form prescribed by the Director. A person applying for an exemption certificate shall provide the following information:
1. The name, address, and telephone number of the person applying for the exemption certificate.
2. The facility name and the facility location of the storage facility for which the exemption certificate is sought.
3. The reason justifying the issuance of an exemption certificate.

C. If the Department determines that the person applying for an exemption certificate is not liable for paying the tax, the Department shall issue the exemption certificate. A person who has been denied an exemption certificate may request a hearing on the denial within 30 days after receiving notice of the denial. The hearing shall be conducted pursuant to R18-1-201 through R18-1-219.

D. The following exemption certificate numbers are established to characterize the following circumstances:
1. Deliveries to storage facilities in Indian country: 00-0100001.
2. Deliveries to state-owned storage facilities: 00-0200002.
3. Deliveries to federally owned storage facilities: 00-0300003.

E. A supplier shall not include the tax in the amounts charged by the supplier for deliveries of regulated substances if the person to whom the regulated substances are delivered presents a valid exemption certificate.

Historical Note

Temporary rule adopted effective July 3, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-3). Temporary rule readopted effective December 28, 1990, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 90-4). Temporary rule readopted effective June 28, 1991, pursuant to A.R.S. § 49-1031(H) and (I), effective for 180 days (Supp. 91-2). Temporary rule permanently with changes adopted effective December 26, 1991 (Supp. 91-4).

ARTICLE 5. FEES

R18-12-501. Fees

A. Each owner and operator of an underground storage tank who is required by A.R.S. § 49-1020 to pay annually to the Department a fee of $100.00 for each tank shall make the required payment on or before March 15 of each year.

B. For any check or other instrument used to pay the annual fees described in this Section that is returned to the Department as dishonored by the drawer's financial institution, the owner and operator of the tank shall pay a charge of $25.00.

C. An owner and operator of an underground storage tank may request in writing that the Department approve an alternate schedule for paying the fee required by A.R.S. § 49-1020. The Department will approve an alternate schedule if the following conditions are met:
1. The owner and the operator request and receive approval of the schedule from the Department before March 15 of the year for which the schedule is requested.
2. Each partial payment made under the schedule will equal to at last 25% of the total payment due on March 15.
3. The first partial payment is made on March 15 of the year for which the schedule is requested.
4. The total amount due is paid by September 15 of the year for which the schedule is requested.

Historical Note

Adopted effective December 26, 1991 (Supp. 91-4).

ARTICLE 6. UNDERGROUND STORAGE TANK ASSURANCE FUND

R18-12-601. Qualification Standards for Performing Corrective Action Services

A. Except as otherwise provided in subsection (B), an individual who performs or directly supervises or manages the rendering of corrective action services shall meet the qualification standards described in this Section. Compliance with applicable qualification standards is required for Departmental payment. Except as otherwise provided in R18-12-602, Departmental qualification review shall take place at the time application for reimbursement is made.

B. Subsection (A) shall not apply to persons for corrective action services performed after September 15, 1989, and prior to the effective date of this Section, and for corrective action services in progress on the effective date of this Section. The Department shall reimburse for the corrective action services described in this subsection if the services have been accepted by the Department as complying with the UST regulatory program, and if the documentation of costs of the corrective action meets the requirements of R18-12-605. For purposes of this subsection, corrective action services are considered to be in progress if work is actually being performed on the effective date of this Section or if a contract describing work to be performed has been entered into by the owner and operator of the UST system and the person performing the corrective action services as of the effective date of this Section.

C. An individual, by satisfying the appropriate standards set forth in this Section, and providing verifiable documentation in accordance with subsection (H), shall be considered qualified for any one or more of the following categories of corrective action services: consultant, contractor, or tester.

D. An individual shall be considered to be qualified as a consultant for purposes of this Section if the individual meets both of the following conditions:
1. Possession of, pursuant to subsection (G), approved experience of either a supervisory or managerial nature, in three UST corrective actions within the past five years relating to the category for which qualification is sought.
2. Possession of one of the following:
   a. A valid Arizona registration where such is required by the Board of Technical Registration pursuant to A.R.S. §§ 32-101 through 32-145.
   b. Where registration is not required under subsection (D)(2)(a) above, a bachelor's degree from an accredited college or university in the physical sciences or a related field.

E. An individual is qualified as a contractor for purposes of this Section if both of the following conditions are met:
1. The individual possesses a valid Arizona license where such license is required by the Registrar of Contractors pursuant to §§ 32-1121 through 32-1129.01.
2. The individual meets either of the following requirements:
   a. Possession of certification by the Department as a tank service provider in accordance with Article 8 of

this Chapter for the activities for which qualification is sought under this subsection.

b. Possession of, pursuant to subsection (G), approved experience in the completion of three UST corrective action tasks within the past five years relating to the category for which qualification is sought.

F. An individual who conducts tank testing, piping testing, or UST system testing shall be considered to be qualified as a tester for purposes of this Section if the individual has obtained the tightness testing certification described under R18-12-803(2) in accordance with Article 8 of this Chapter.

G. Experience is approved if that approval is obtained in one of the following ways:

1. For an Arizona project, project approval by the Department.
2. For a project outside Arizona, project approval from the governing entity responsible for administering the UST program in that state, where such approval is based upon corrective action standards pursuant to 40 CFR 280.60 through 280.67. 40 CFR 280.60 through 280.67, as amended as of July 1, 1991 (and no future editions), is incorporated herein by reference and is on file with the Department of Environmental Quality the with the Office of the Secretary of State.
3. For a project outside Arizona, where no approval standards exist or where approval standards are not equivalent to the corrective action standards described in paragraph (2), approval by the Department which is based upon a submitted report of work evaluated by the Department in accordance with R18-12-605(F).

H. Verifiable documentation of the experience described in subsections (D), (E), or (F) shall consist of all of the following information:

1. The title and site location of the corrective action service.
2. The name, telephone number, and address of the owner and operator for whom the corrective action service was conducted.
3. Where the firm served as a subcontractor for an UST corrective action service, the name and address of the prime contractor.
4. A brief narrative summary of the corrective action service.
5. The start date and the completion date of the corrective action service.

I. Even though an individual meets the qualification standards described in subsection (D), (E), or (F), a Departmental finding of any of the following shall result in a failure to meet qualification standards:

1. A failure to provide adequate documentation of the work performed.
2. A failure to perform the work described in the documentation.
3. The work fails to meet generally accepted industry standards.
4. A failure to perform work in a timely manner.
5 A failure to otherwise meet the UST regulatory program standards.
6. A falsification of documents.

J. The purpose of the qualification requirements imposed by this Section is to foster quality in the performance of the corrective action services for which reimbursement from the assurance fund is sought. Neither the state of Arizona nor the Department of Environmental Quality nor their officers, agents or employees guarantee the performance of a qualified consultant, contractor or tester selected by an owner or operator to perform corrective action services.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective December 6, 1996 (Supp. 96-4).

R18-12-602. Prequalification Status

A. A firm may become prequalified for future corrective action services by demonstrating to the Department that it meets the conditions of this Section, in addition to R18-12-601. A firm achieving prequalification status under R18-12-602 shall have its name included on a Departmental list which is made available to the public.

B. Where a firm seeks qualification for more than one category, application shall be made separately for each qualification category sought.

C. The Department may grant prequalification status to a firm which has in its employ at least one employee, who meets the qualifications described in R18-12-601(D), (E), or (F) for the category in which the firm seeks qualification and who will directly perform, supervise or manage corrective action services.

D. A firm seeking prequalification status shall provide the Department all of the following information on a form prescribed by the Department:

1. The name of any owner, officer, or public official who has authority to sign reports of corrective action services.
2. The name, title, and telephone number of the firm's contact person.
3. The name and qualifications of each individual who will directly supervise or manage a corrective action activity and a demonstration that each individual is qualified as described in R18-12-601(D), (E), or (F) for the category of activity that will be supervised or managed.

E. Neither the state of Arizona nor the Department of Environmental Quality nor their officers, directors, agents or employees guarantee the performance of a firm selected by an owner or operator from the Department's list of firms prequalified to perform corrective action services.

F. As a condition precedent to obtaining prequalification status, a firm shall agree to indemnify and hold harmless the state of Arizona, the Department of Environmental Quality, and their officers, directors, agents or employees from and against all claims, damages, losses, attorneys' fees and expenses arising out of Departmental designation of the firm as one prequalified to perform corrective action services eligible for reimbursement under the underground storage tank financial assurance fund, including, but not limited to, bodily injury, sickness, disease or injury to or destruction of tangible property including the loss of use resulting therefrom, caused in whole or in part by any negligent act or omission of the firm, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not is caused in part by a party indemnified hereunder.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).

R18-12-603. Retention of Prequalification Status

A. A firm which holds prequalification status pursuant to R18-12-602 has a continuing duty to provide, on a timely basis, information or material to the Department which may affect the firm's prequalification status. This information includes, but is not limited to, the addition to or deletion from the firm's employee roster those individuals meeting the qualifications set forth in R18-12-60l(D), (E), or (F).

B. Prequalification status for a firm shall remain valid until the occurrence of either of the following:

1. The firm informs the Department that it no longer wishes prequalification status.
2. The Department revokes prequalification status as de scribed in subsections (C) and (D).

C. If the Director has reason to believe that the work of any prequalified firm fails to meet the UST regulatory program standards or fails to meet any of the requirements described in this Section, the Department may issue a written notice of performance review. Such notice of performance review shall identify specific areas of Departmental concern and provide notification of ongoing Departmental oversight in the areas specified. The Department may revoke prequalification status on the basis of any one of the following findings:
1. A failure to demonstrate or maintain compliance with the prequalification standards set forth in R18-12-602.
2. A failure to provide notice to the Department as provided in subsection (A) of this Section.
3. A failure to provide adequate documentation of work performed.
4. A failure to perform work described in the documentation of work performed.
5. Work which fails to meet generally accepted industry standards.
6. A failure to otherwise meet the UST regulatory program standards.

D. In every case, falsification of documents will result in Departmental revocation of prequalification status.

E. Within 90 days after notification of performance review, the Department shall advise the firm of one of the following determinations:
1. The Department has determined that performance review is no longer warranted.
2. The performance review is extended for a period of 90 days.
3. The Department revokes the prequalification status of the firm and states the basis for such revocation.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).

R18-12-604. Individual Applicant: Application Requirements

A. An eligible person seeking partial reimbursement of corrective action costs shall make application in a format prescribed by the Department.

B. An applicant shall provide the Department with all of the following information regarding the applicant:
1. The name, telephone number, and mailing address of the applicant.
2. The name or names that are to appear on the payment warrant, and the appropriate federal employer identification (tax) number or social security number.
3. A description of the applicant's status as an entity eligible for partial coverage of costs.
4. Where a direct payment to a designated representative is requested pursuant to R18-12-607(A), an authorization to the Department to make a direct payment to the person designated.
5. Where preapproval of funds is requested pursuant to R18-12-607(B), the applicant shall furnish the information set forth in that subsection.
6. The name and telephone number of a person the Department may contact in the event there are questions regarding the application.

C. An applicant shall provide the Director with all of the following information regarding the corrective action site:
1. The leaking underground storage tank file number.
2. The facility name and site address.

D. An applicant shall provide the Department, in a format prescribed by the Department, all of the following information regarding the corrective action service for which reimbursement is sought:
1. The identification of the time period covered by the application.
2. The identification of a report of work performed which is on file with the Department, for the corrective action covered by the application.
3. A statement as to whether the application is the first request for reimbursement of corrective action expenses incurred in response to the release.
4. The number of previous requests for reimbursement that have been submitted relative to the Leaking Underground Storage Tank file number.
5. The total amount of all corrective action expenses, indicating which were previously reimbursed or previously submitted for reimbursement for this release.
6. The total amount of all costs for which reimbursement is requested and supporting documentation for all of the following categories of costs:
   a. Personnel.
   b. Excavation.
   c. Drilling.
   d. Field analysis.
   e. Laboratory analysis.
   f. Soil or aquifer tests.
   g. Tank, piping, or UST system tests.
   h. Vehicles.
   i. Direct purchases, including, but not limited to, equipment purchases.
   j. Lease or rental.
   k. Purging, removal, transport, or disposal of UST systems.
   l. Indirect costs for administrative or general expenses.
   m. Professional services costs directly related to any required permit application.
   n. Other expenses, directly related to the required corrective actions, except those described in subsection (D)(7).
   o. Any required permit fees.
7. The total amount of costs incurred for professional services directly related to the preparation of the assurance fund application.
8. Documentation of the amount of the assurance fund deductible chosen and documentation of costs incurred for purposes of determining whether the deductible has been met.
9. The name and address of the person who performed, or who will perform, reimbursable services, including all of the following information:
   a. Identification of the service provider as a consultant, contractor, or tester.
   b. A statement as to whether the firm employed by the owner to perform corrective action holds prequalification status pursuant to R18-12-602.
   c. The name and telephone number of the project contact person.
10. An estimate of the total cost of the project where either of the following occur:
    a. The claim for reimbursement represents a phase of work.
    b. The claim for reimbursement represents a request pursuant to R18-12-607(B).
11. Where an estimate of the total cost is submitted under subsection (D)(10) above, a statement certifying that the

estimate is accurate and complete to the applicant's best information and belief.

E. In addition to complying with subsections (A) through (D) and subsections (F) and (I), an applicant applying on behalf of a for-profit firm shall provide the Department with a copy of all of the following:
1. The most recent year federal and state income tax returns identified by firm name and address.
2. The most recent year-end financial statements for the firm, including profit and loss statement, balance sheet, and all prepared notes and schedules to the financial statements, including all of the following:
   a. Total revenues and total expenses.
   b. Profit after tax, if applicable.
   c. Total assets and total liabilities.
   d. Intangible assets.
   e. Current year-end and prior year-end net worth.
3. For sole proprietorships, a personal financial statement of the owner.
4. For partnerships and S corporations, the personal financial statement and tax returns of owners of 20% or more of the firm.
5. Additional financial information determined by the Department as necessary to establish financial need.

F. Where the applicant firm is a wholly owned subsidiary, the Department shall determine financial need based upon the financial statements of the parent corporation.

G. In addition to complying with subsections (A) through (D) and subsection (I), an applicant applying on behalf of a political subdivision shall provide the Department with the most recent year-end copy of the following:

Certified financial report with all prepared notes and schedules to the certified financial report.

H. In addition to complying with subsections (A) through (D) and subsection (I), an applicant applying on behalf of a non-profit entity shall provide the Department with a copy of all of the following:
1. The most recent year-end statement of revenues and expenses, balance sheet, and all prepared notes and schedules to the financial statements, including all of the following:
   a. Total revenues and total expenses.
   b. Total net operating excess or loss.
   c. Current year-end and prior year-end restricted fund balances.
   d. Current year-end and prior year-end unrestricted fund balance.
2. The most recent year federal and state income tax returns.

I. The application shall include a certification statement which includes all of the following:
1. Where the applicant is not the owner, or is not the sole owner, an authorization by the owner(s) that the applicant is the designated representative of the owner(s). The authorization must be sufficient to bind the owner(s) to decisions made on his or her behalf by the designated representative.
2. A statement that to the applicant's best information and belief, all information provided on the application and attachments is true and complete.

J. Costs incurred for professional fees directly related to preparation of the assurance fund application shall be credited toward the deductible amount and shall not be reimbursed.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).

R18-12-605. Determination of Reasonableness of Cost

A. On at least an annual basis the Director shall establish a list of corrective action services and respective cost ceiling amounts from which payment will be made. A Departmental list shall be compiled from one or more of the following sources:
1. Annual cost survey responses, including services and costs, completed by persons who perform corrective action services.
2. A determination by the Department of services and costs which should be added to a Departmental list pursuant to subsection (D) below.
3. Such other information as is typically considered in the state procurement process in determining reasonable costs.

B. Eligible costs are those costs which are all of the following:
1. For work determined by the Department to be required under the UST regulatory program.
2. Included on the Departmental list or added pursuant to subsection (D).
3. Supported by adequate documentation as defined in subsection (E).
4. For actual work performed, as described in the documentation, and the case file.
5. For work which meets generally accepted industry standards.
6. For work which meets the UST regulatory program standards.

C. A corrective action cost is considered reasonable if it does not exceed the cost ceiling amount established in the Departmental list. That portion of the costs which exceed the ceiling is not considered reasonable and shall not be paid. Eligible costs which fall at or below the ceiling amount shall be presumed to be reasonable and shall be paid. The Department shall pay the invoice amount for eligible costs where that invoice amount is lower than the cost ceiling amount.

D. Where a submitted category of cost is not on the Departmental list, the Department will evaluate the cost for possible payment. Where the submitted category of cost is evaluated and the Department determines that inclusion on the Departmental list is appropriate, the submitted category of cost will be added to the Departmental list. The Department will refer to one or more of the following in evaluating a submitted category of cost:
1. Estimated figures contained in current national reference volumes as are typically used by procurement professionals and estimators.
2. Historical data.
3. Limited survey data.

E. In determining the reasonable cost of a given corrective action service, and for purposes of meeting the deductible and evaluating claims for reimbursement, the Director shall consider both financial reasonableness and technical reasonableness. Documentation of financial reasonableness shall be considered adequate if it includes all of the following:
1. Hourly labor rate, time, and cost for each labor classification utilized in the corrective action service.
2. Equipment rate, time, and cost for each equipment classification utilized in the corrective action service.
3. Itemized material costs expended in the corrective action service.
4. Subcontractor services itemized and documented as in subsections (E)(1) through (3).
5. The applicant shall identify all amounts referenced in subsections (E)(1) through (4) of this subsection to a report of work performed on file with the Department.

6. The invoice amount supported by copies of cancelled checks, if available, or financial institution statements. If neither copies of cancelled checks nor financial institution statements are available, a certification statement, by invoice, from the vendor.

F. A Departmental determination of technical reasonableness shall consider facts available to the claimant at the time technical decisions were made. The determination by the Department of technical reasonableness shall be based on the appropriateness of the utilized technology in view of the site-specific conditions and the adequacy of the corrective action in addressing the contamination at the site. In addition, technical reasonableness consists of a determination by the Department that the corrective action service met the requirements of A.R.S. § 49-1005 in effect when the corrective action was performed.

G. For corrective action costs including the deductible amount referenced in R18-12-604(D)(7), all the requirements of this Article shall be satisfied in order to be considered eligible for reimbursement.

Historical Note

Adopted effective September 21, 1992 (Supp. 92-3).

R18-12-605.01.Soil Clean-up Standards

A. The payment provisions of this Section shall apply to all costs of corrective action services conducted on or after November 15, 1996, for that portion of a release which is confined to soil, as defined under A.A.C. R18-7-201(25).

B. Subject to the provisions of subsections (C) through (G) of this Section, no payment from the assurance fund shall be made for corrective action expenses incurred to remediate the release of a regulated substance to a standard more stringent than either of the following:

1. The background concentration for any component of the released regulated substance determined in accordance with A.A.C. R18-7-204,
2. The greatest allowable remaining concentration for any component of the released regulated substance permitted under A.A.C. R18-7-205.

C. If the concentration of any component of the released regulated substance is greater than the remediation standards described in subsection (B) of this Section, the assurance fund shall pay, subject to the provisions of A.R.S. §§ 49-1052, 49-1054 and this Article, corrective action expenses incurred in accordance with the following, as elected by the eligible person:

1. Reducing the concentration of any component of the released regulated substance to the greatest allowable remaining concentration determined in accordance with A.A.C. R18-7-204 or permitted under A.A.C. R18-7-205.
2. Reducing the concentration of any component of the released regulated substance, including the cost of the site specific risk assessment, to the following:
   a. For properties described in A.A.C. R18-7-206(C)(1) through (3), to the greatest allowable remaining concentration determined in accordance with A.A.C. R18-7-206 (C).
   b. For properties not described in A.A.C. R18-7-206(C)(1) through (3), to the greatest allowable remaining concentration in accordance with A.A.C. R18-7-206(D)(2) or A.A.C. R18-7-206(E). The cost of engineering controls determined under A.A.C. R18-7-206(E) shall be paid as follows:
      i. Corrective action expense for a site-specific risk assessment determined in accordance with A.A.C. R18-7-206(E), shall include the cost of installing engineering controls if the eligible person can demonstrate the cost effectiveness in accordance with A.R.S. § 49-1052(B) and the rules promulgated thereunder.
      ii. Corrective action expense for a site-specific risk assessment determined in accordance with A.A.C. R18-7-206(E), shall not include the cost of maintaining engineering controls required under A.A.C. R18-7-206(E).

D. For the period ending August 15, 2001 only, the assurance fund shall pay, subject to the provisions of A.R.S. § 49-1052, § 49-1054, and this Article, corrective action expenses, including the cost of the site-specific risk assessment, incurred for reducing the concentration of any component of the released regulated substance to the greatest allowable remaining concentration determined in accordance with A.A.C. R18-7-206(D)(1) under the following circumstances:

1. If a written contract, entered into prior to April 1, 1996, and not renewed after April 1, 1996, between the property owner and an owner or operator of the UST system, sets forth in express terms a requirement to remediate to the Department's Suggested Soil Cleanup Levels or "SSCLs". The eligible person shall submit a true and correct copy of the contract to the Department for review and acceptance. The submitted contract shall be entitled to confidentiality protection under A.R.S. § 49-1012.
2. If a written contract was entered into prior to April 1, 1996, and is not renewed after April 1, 1996, between the property owner and an owner or operator of the UST system, relating to the ownership or operation of the UST system, and the property owner, who is not the operator of the UST system or an owner, as defined in A.R.S. § 49-1001.01, refuses to sign a Voluntary Environmental Mitigation Use Restriction ("VEMUR") for a site which has been remediated or determined to be at or below non-residential concentrations. The owner or operator of the UST system shall provide written notice to the Department that the property owner refuses to sign a VEMUR.

E. In all cases, the assurance fund shall pay, subject to the provisions of A.R.S. § 49-1052, A.R.S. § 49-1054, and this Article, corrective action expenses incurred for reducing the concentration of any component of the released regulated substance to a remediation standard established prior to the effective date of this Section by any of the following:

1. An Order of a court of competent jurisdiction;
2. An Order of the Director in accordance with A.R.S. § 49-1013;
3. A work plan pre-approved by the Department under R18-12-607 or R18-12-607.01;
4. A corrective action plan in accordance with 40 CFR 280.66 approved by the Department. 40 CFR 280.66, as amended on July 1, 1994 (and no future amendments or additions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.

F. The assurance fund shall pay, subject to the provisions of A.R.S. §§ 49-1052, 49-1054, and this Article, for either of the following:

1. Reducing the concentration of any component of the released regulated substance below the standards of this Section where it was not feasible to control the cleanup technology to limit corrective actions to the standards of this subsection.
2. Demobilizing and abandoning of corrective action equipment at or from the facility.

G. Nothing in this Section shall be used to deny payment for corrective action expenses directly related to the remediation of

groundwater, regardless of the concentration of regulated substance reached in the soil.

Historical Note
Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to A.R.S. § 49-1014, and §§ 49-1052 (B) and (O), effective August 15, 1996 (Supp. 96-3).

R18-12-606. Determination of Priority of Payment: Ranking Process

A. The Department shall allow monthly revenues to accumulate in the assurance account to an amount sufficient to make a fund distribution to eligible applications. If the Department determines sufficient funds are available, applications shall be considered for payment in regular rounds in the order received by the Department. The Department shall utilize a ranking system made up of points described in subsection (D) to apply the priority of payment criteria prescribed in A.R.S. § 49-1052(F).

B. On a periodic basis no less often than once a year and as often as sufficient funds are available, the Department shall determine the priority of payment of approved claims from funds available. The Department shall obtain information necessary to assign points from all the following sources:
1. Information submitted by the applicant in the application.
2. Other information submitted by the applicant which forms the site specific file.
3. Information obtained from Departmental review or analysis with regard to the site.

C. The Department shall rank claims for payment in a descending numerical order. Each claim will be assigned a numerical ranking and all claims will be paid in consecutive rank order from the highest to lowest rank. Payments shall be made from the assurance account until either all ranked claims have been paid or until assurance account monies are temporarily depleted, whichever occurs first. Claims which remain unpaid at the time the assurance account monies are temporarily depleted shall be deferred for payment until the next round, pursuant subsection (H).

D. The point system shall consist of a composite numerical score comprised of individual scores for the various statutory criteria. For a given period of time, which comprises a regular periodic round, an application score is ranked for payment against other application scores assigned during the same time period.

E. The Department shall rank claims for payment on a scale of 100 possible points. Of these points, financial need criterion can be assigned a maximum of 45, and the risk to human health and the environment criterion can be assigned a maximum of 45, for a total of 90 possible points. If the partial coverage is provided as a preapproved amount to a person performing a corrective action, five points are assigned. Where there is no preapproved amount, no points shall be assigned. If a delay in providing coverage will affect a corrective action in progress, five points are assigned. Where a delay in providing coverage will not affect a corrective action in progress, no points shall be assigned.

F. The Department shall determine a numerical score using the formula described in this subsection. The total numerical score assigned to an application is calculated using the following factors:
1. Financial need (FN).
2. Risk to human health or the environment (R).
3. Preapproved amount (PA).
4. Delay (D).

Expressed mathematically, the total numerical score shall be calculated as follows: (FN)+(R)+(D)+(PA).

G. For applications of equal score, the earlier date of application for coverage shall receive the higher rank. For applications of equal rank and the same date of application for coverage, the earlier date on which a corrective action for which coverage is sought is to be or was taken shall receive the higher rank.

H. A ranked claim, which remains unpaid at the time assurance account monies are depleted shall be held by the Department until such time as additional monies become available. A deferred claim shall receive two points for each deferral.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).

R18-12-607. Direct Pay and Preapproval of Funds

A. For completed work, the Department may make a direct payment where the applicant assigns payment to a designated representative. An applicant who seeks direct payment under this subsection shall authorize the Department to make payments to the designated representative.

B. For corrective action services not yet begun, the Department may preapprove funds where, in the Department's judgment, such preapproval of funds is necessary to begin or to continue corrective action. In addition, all of the following shall be met for Departmental preapproval of funds:
1. Submission of a detailed estimate performed by a qualified person as set forth in Section R18-12-601.
2. Establishment, prior to work being performed, of compliance with the UST regulatory program.
3. Demonstration that the appropriate deductible amount has been met pursuant to A.R.S. § 49-1054(A) and the rules promulgated thereunder.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).
Amended effective September 14, 1995 (Supp. 95-3).

R18-12-607.01. Pre-approval

A. The Department shall not make payment from the assurance account for the costs of corrective action performed during a phase of corrective action that is initiated after the effective date of this Section unless the eligible person meets the requirements of this Section. A phase of corrective action is initiated with the first corrective action activity performed following the submission to the Department of a report of work evidencing the completion of any activity performed in compliance with the requirements of A.R.S. § 49-1005(D). An application for pre-approval may include multiple phases of corrective action, provided applications that include work plans described under subsections (F), (I), or (K) of this Section are limited to phases described in one of those subsections.

B. An eligible person who elects to begin a phase of corrective action without awaiting approval of a work plan by the Department shall be subject to all of the following pre-approval procedures:
1. Prior to beginning the phase of corrective action the eligible person shall notify the Department, in writing;
2. The technical and financial reasonableness of the corrective action shall be reviewed and approved in accordance with R18-12-605;
3. The eligible person who makes such an election shall:
   a. Not accrue five points for pre-approval under R18-12-606(E),
   b. Have 15 points subtracted from the composite numerical score determined in accordance with R18-12-606(D);
4. An application for payment of corrective action cost of any phase subject to the election described under subsection (B) shall be ranked for payment in the regular round

based on the date the reimbursement application is received by the Department.

C. The pre-approval procedures of this Section shall not apply to corrective action expenses incurred under any of the following:

1. A work plan submitted prior to the effective date of this Section and subsequently approved, in writing, by the Department.
2. A corrective action plan in accordance with 40 CFR 280.66 submitted prior to the effective date of this Section and subsequently approved by the Department. 40 CFR 280.66, as amended on July 1, 1994 (and no future amendments or additions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.
3. An Order of a court of competent jurisdiction.
4. An Order of the Director in accordance with A.R.S. § 49-1013.

D. An eligible person shall be deemed to be in compliance with pre-approval requirements for initial corrective action activities described in this subsection from the date of the report to the Department of the release or of the subsequent discovery of the existence of free product or fire, explosion or vapor hazards, if all of the following are met:

1. Discovery of the release or subsequent discovery of free product or fire, explosion or vapor hazards is reported to the Department.
2. Work and costs are in compliance with the financial and technical reasonableness requirements of R18-12-605.
3. Compliance with one or more of the following:
   a. Initial response activities under A.R.S. § 49-1005(D)(1), subject to the provisions of A.R.S. § 49-1005(F), in accordance with the provisions of 40 CFR 280.61. 40 CFR 280.61 as amended on July 1, 1994 (and no future amendments or editions) is incorporated by reference and is on file with the Department and the Office of the Secretary of State.
   b. Initial abatement measures and site check activities under A.R.S. § 49-1005(D)(2) and (3), subject to the provisions of A.R.S. § 49-1005(F), in accordance with the provisions of 40 CFR 280.62. 40 CFR 280.62 as amended on July 1, 1994 (and no future amendments or editions) is incorporated by reference and is on file with the Department and the Office of the Secretary of State.
   c. Free product removal under A.R.S. § 49-1005(D)(5), subject to the provisions of A.R.S. § 49-1005(F), in accordance with the provisions of 40 CFR 280.64. 40 CFR 280.64 as amended on July 1, 1994 (and no future amendments or editions) is incorporated by reference and is on file with the Department and the Office of the Secretary of State.
4. Confirmation of compliance with the requirements of subsection (D) is demonstrated in the submission to the Department of one of the following:
   a. A request for LUST file closure;
   b. An application for pre-approval of site characterization in accordance with subsections (G) through (I);
   c. An application for pre-approval of response to contaminated soil, surface water or groundwater in accordance with subsections (G), (H), and (K).
5. If the initial corrective action activities are expected to extend beyond 45 days from the date of initiation, the eligible person may continue the initial corrective action activities only if the eligible person submits an application, in accordance with subsections (G), (H) and (K), which includes the continuing initial corrective action activities, for pre-approval to the Department prior to the 45th day.

E. An eligible person shall be deemed to be in compliance with pre-approval requirements for the costs of removing an UST system from the ground if documented contamination exists, corrective action is required under A.R.S. § 49-1005, and all of the following are met:

1. Discovery of the release is reported to the Department.
2. Work and costs are in compliance with the financial and technical reasonableness requirements of R18-12-605.
3. Work is in compliance with the requirements of R18-12-271.
4. Excavation costs are limited to the costs necessary to excavate the volume of soil required to remove the tank and piping from the ground and meet the sampling requirements of R18-12-272.
5. Confirmation of compliance with the requirements of subsection (E) is demonstrated in the submission to the Department of one of the items under subsection (D)(4)(a) through (c).

F. An eligible person shall be deemed to be in compliance with pre-approval requirements for initial site characterization under A.R.S. § 49-1005(D)(4) that are performed, subject to the provisions of A.R.S. § 49-1005(F), in accordance with the provisions of 40 CFR 280.63, if the person meets the requirements of subsections (F)(1) through (6) or the requirements of subsection (F)(7). 40 CFR 280.63 as amended on July 1, 1994, (and no future amendments or additions), is incorporated by reference and is on file with the Department and the Office of the Secretary of State.

1. Discovery of the release is reported to the Department.
2. Work and costs are in compliance with the financial and technical reasonableness requirements of R18-12-605.
3. Non-intrusive site information described in subsections (H)(4)(a), (d), and (e) of this Section, is collected.
4. A single vertical boring is drilled as close as physically possible to each confirmed release point, but not further than five feet (1.5 meters) from the release point. Borings shall not be drilled deeper than any of the following:
   a. The depth at which groundwater is encountered,
   b. 10 feet deeper than the last field detectable evidence of contamination,
   c. The depth at which bedrock is encountered.
5. A soil sample for laboratory analysis is taken at least every 10 vertical feet but no more than every five vertical feet during a boring described in subsection (F)(4). All sampling shall meet the requirements of R18-12-280.
6. Confirmation of compliance with the requirements of subsection (F) is demonstrated in the submission to the Department of one of the items under subsections (D)(4)(a) through (c).
7. An eligible person shall submit an application for pre-approval if either of the following exist:
   a. A request for pre-approval of site characterization in accordance with subsections (G) through (I) shall be made if site specific conditions prevent compliance with the provisions of subsection (F)(4)(a) through (c) or (F)(5), or if the full horizontal and vertical extent of contamination is not determined under the provisions of subsections (F)(1) through (6).
   b. A request for pre-approval of initial site characterization is elected by the eligible person. The request shall be included with the application described under R18-12-604 and shall include the cost estimates described under subsection (G)(2) of this Sec-

tion. In addition, a work plan that shall be limited to the information described under subsections (H)(1)(a), (H)(2)(a), (H)(2)(e), (H)(3), (H)(4)(a), (H)(4)(d), and (H)(4)(e) of this Section, and a statement that the initial site characterization activities shall be performed, subject to the provisions of A.R.S. § 49-1005(F), in accordance with 40 CFR 280.63 and subsection (F)(4) and (5) of this Section.

G. A request for pre-approval for conducting investigations for soil, waters of the United States and groundwater cleanups under A.R.S. § 49-1005(D)(6) or responses to contaminated soil, waters of the United States and groundwater under A.R.S. § 49-1005(D)(7), with the exception of subsection (F)(7)(a), shall be made after the initial site characterization under A.R.S. § 49-1005(D)(4) is completed and included with the application described under R18-12-604. An application for pre-approval shall include both of the following:

1. A work plan which contains the information set forth under subsections (H) and (I) or (K);
2. A detailed estimate of cost, by category of cost in accordance with R18-12-604(D)(6) and R18-12-605(E), to implement the work plan. Each contingency described in the work plan shall be identified in the estimate and include a separate cost estimate for the contingency.

H. Except as provided under subsection (F)(7)(b) of this Section, any work plan submitted to the Department shall contain all of the following:

1. Facility identification and location information which shall include both of the following:
   a. UST facility information including: facility name, facility identification number, street address including city and zip code, county, and the legal description of the property.
   b. Description of the current occupancy of the facility, current property use as either residential or non-residential, the zoning classification assigned to the facility and under any pending application for a change in zoning classification, and, where applicable, the master plan designation of the facility as residential or non-residential including identification of the master plan.
2. Name, complete address, daytime telephone and FAX number of each of the following:
   a. Eligible person;
   b. UST owner;
   c. Property owner, if different than the UST owner;
   d. UST operator;
   e. Person at the facility serving as a contact person to the Department.
3. Name of the environmental consulting firm, name of the firm contact, complete address, daytime telephone and FAX number.
4. UST history and potential contaminant sources, pathways and receptors, including all of the following:
   a. Information on the release that is the subject of the pre-approval application including that information required under A.R.S. § 49-1004(C), the LUST number assigned to the release, and all currently known or available LUST numbers for other releases reported at the facility.
   b. UST excavation information including: dimensions of the height, width, and depth, of the excavation and a description of the material used to backfill the excavation as either clean fill, contaminated soil, presently not backfilled, or another type of backfill. Demonstration of compliance with the requirements of subsection (E) of this Section shall be included in this section of the work plan.
   c. A description of all corrective action activities initiated prior to the submittal of the work plan and documentation of any notice submitted to the Department for self-initiated corrective actions.
   d. The known or estimated depth to groundwater along with the date and source of this information.
   e. Available site specific lithologic and geologic information. If no site specific information is available, information from known LUST releases, identified by LUST number, located within 500 feet of the facility shall be included. If no LUST release exists within 500 feet of the facility, other information shall be reported. The source and date of the information shall be included.
   f. Volume and location of excavated soil located at the facility.
   g. A list of all waters of the United States located within 1/4 mile of the facility, as listed in 18 A.A.C. 11.
   h. Unless the vertical extent of contamination is limited to the vadose zone, a list of all wells registered with the Arizona Department of Water Resources (ADWR), and any other known or observed wells located within ¼ mile of the facility. For ADWR registered wells, the list shall include the Arizona Department of Water Resources registration number, water use category, reported water level, and drill date, if recorded.
   i. A list of all schools, hospitals, nursing homes, and residential areas as described under A.R.S. § 49-151(3), located within 500 feet of the facility.
5. Maps and diagrams, in accordance with all of the following:
   a. Site location map, drawn to scale, which shall include the local area within a ¼ mile of the facility and all of the following information:
      i. A north arrow;
      ii. The map scale;
      iii. The facility, prominently marked.
      iv. Streets, roads, alleys or other thoroughfares with labels;
      v. The general locations of all items listed in accordance with subsection (H)(4)(i);
      vi. The location of other LUST sites listed in accordance with subsection (H)(4)(e) identified by LUST file number;
      vii. The location of all wells listed in accordance with subsection (H)(4)(h);
      viii. The locations of waters of the United States listed in accordance with subsection (H)(4)(g).
   b. All site plans produced in accordance with subsections (H)(5)(c) through (e) of this Section shall be drawn to scale and include all of the following:
      i. A north arrow;
      ii. The map scale;
      iii. The property boundaries;
      iv. Adjacent land uses and general locations, as known, of structures surrounding the facility which could affect or be affected by the release including utility corridors, sewer systems, irrigation canals, drainage channels, transportation avenues, wells with any monitor well identification numbers, and waters of the United States;

v. Any buildings, on-site structures, or above ground storage tanks;
vi. The type and extent of on-site ground-surface cover described as asphalt, concrete, soil, or another specific type of cover;
vii. The present and former tank locations including all piping and above ground ancillary equipment with labels giving the size and contents of each tank. If any of this information is not known, estimated information shall be provided;
viii. Location of the release listed in accordance with subsection (H)(4)(a);
ix. Extent of any existing excavations resulting from UST corrective actions and the location of any excavated soil stockpiles;
x. Any structures, such as overhead power lines, that may interfere with drilling access.

c. A site plan which shows previous soil investigations, including all of the following:
i. Boring locations and identification numbers.
ii. Other soil sample collection locations, and identification numbers.
iii. Direct push probe point locations and identification numbers.

d. A site plan showing the results of previous groundwater investigations including all of the following:
i. Surveyed monitor well locations and identification numbers.
ii. Direct push probe points location and identification numbers.
iii. An arrow denoting groundwater flow direction of each aquifer being monitored.

e. A site plan showing the results of previous waters of the United States investigations which shall include both of the following:
i. Waters of the United States sample collection locations and identification number for each location.
ii. An arrow denoting flow direction of the waters of the United States, if applicable.

f. Construction diagrams of existing monitor wells showing well identification numbers and, if available:
i. Total depth and diameter of hole.
ii. Casing material, diameter, screened interval, groundwater elevation, wellhead and surface completion, and intervals for the annular fill materials described as sand, grout, or another specified material.

6. Tabulations of laboratory analytical results and water level data previously acquired to investigate the release which is the subject of the pre-approval application. If the laboratory analytical data have not been previously submitted to the Department, all laboratory analytical reports and chain of custody forms shall be included. Tabulation of laboratory analytical results is not required, nor will be accepted, where no laboratory analytical reports or chain of custody forms exist. The tabulations shall include the following:
a. Soil sampling analytical results including at least the sample identification number, the depth at which each sample was collected, and the date each sample was taken.
b. Groundwater sampling analytical results including at least the sample identification number and the date each sample was taken.
c. Waters of the United States sampling analytical results including the sample identification number and date each sample was taken.
d. Monitor well water level measurement data that shall include, for each measurement, at least the monitor well identification number, date of measurement, elevation of top of casing, screened interval, depth to water, and the water level elevation. If free product is present, include depth to free product and the elevation of the free product level.

7. A proposed work schedule for initiating, monitoring, and completing the corrective action activities under the work plan and for permit acquisition. The schedule shall identify the major activity increments of the work plan, including interim and final reporting to the Department, and include for each increment an estimate of the time for completion, following the Department approval of the work plan.

I. Any work plan submitted to the Department for investigations for soil, waters of the United States, and groundwater cleanups under A.R.S. § 49-1005(D)(6) shall meet the requirements of subsection (H) and all of the following:
1. All work plans submitted under subsection (I) shall contain all of the following:
a. The number of proposed samples, borings, probe points, and monitoring wells, and a rationale for the total number, locations, and proposed depths.
b. The locations of proposed samples, borings, probe points, and wells shown on the map described in subsection (H)(5)(b).
c. A description, including standard operating procedures, of the field equipment such as drill rig, field vapor detectors, and direct push equipment that will be used to obtain samples and to drill or install borings, wells, and probe points.
d. A list of all applicable permits and off-site access agreements that have been obtained or may be required.

2. If groundwater contamination has been found or if contaminated soils may be in contact with groundwater, all of the following shall be included:
a. A description of the local known or estimated hydrologic conditions such as the depth to groundwater, gradient, flow direction, confining layers, multiple aquifers or water table fluctuation (seasonal or historic) that may affect the construction or location of monitor wells. Known or estimated groundwater flow direction shall be shown on the site plan described in subsection (H)(5)(b).
b. Diagrams showing the construction of proposed wells including:
i. Total depth and diameter of hole.
ii. Casing material, diameter, screened interval, groundwater elevation, wellhead and surface completion, and intervals for the annular fill materials described as sand, grout, or another specified material.
c. A description of proposed well construction materials, and installation and development procedures.

3. If contamination of waters of the United States has been found, all of the following shall be included:
a. The uses of the waters of the United States or any unique waters designation pursuant to 18 A.A.C. 11

and a description of the known or estimated local gradient, flow direction, and average monthly discharge.

b. Nature of the waters of the United States identified as perennial or ephemeral.

4. A contingency plan shall be included that provides for additional soil, waters of the United States, or groundwater investigations, in the event that the investigations conducted under subsections (I)(1) through (3) do not adequately determine the full extent of contamination, or a rationale shall be provided as to why a contingency plan is not required. The contingency plans shall meet the requirements of (I)(1) through (3). The contingency plan shall contain conditions under which the additional investigations shall be performed.

J. A work plan for investigations for soil, waters of the United States, and groundwater cleanups that meets the requirements of subsections (H) and (I) shall be approved by the Department if the eligible person demonstrates through the work plan that the full extent and location of soils contaminated by the release and presence and concentrations of dissolved product contamination in groundwater and waters of the United States will be determined.

K. Any work plan submitted to the Department for responding to contaminated soil, groundwater, and waters of the United States under A.R.S. § 49-1005(D)(7) shall meet the requirements of subsection (H) and all of the following:

1. A report of investigations for soil, waters of the United States, and groundwater cleanups, approved by the Department, that demonstrates characterization of the full horizontal and vertical extent of contamination has been achieved. At a minimum, the report shall contain all of the information requested in subsection (H) and a description of the outcome of any investigations conducted under an approved work plan pursuant to subsection (I). If this report was previously submitted and approved, the date of the report and the date of submittal to the Department shall be submitted and shall be deemed sufficient to meet the requirements of subsection (K);
2. A description of corrective action goals, including numerical cleanup goals for each contaminant released to soil, groundwater, or waters of the United States. A rationale for each goal shall be provided for each contaminant released to soil, groundwater, or waters of the United States. Each rationale shall demonstrate that the cleanup goal is not more stringent than one of the following:
   a. The Aquifer Water Quality Standards pursuant to R18-11-405 and R18-11-406 at a designated point of compliance.
   b. The Water Quality Standards under Title 18, Chapter 11, Article 1.
   c. Soil Cleanup provisions pursuant to R18-12-605.01.
3. Narratives, figures, diagrams, and maps necessary to describe the proposed design and operation of each system used to perform corrective actions. This Section of the work plan shall provide a rationale, including supporting documentation, for the selection and design of each system, including criteria for evaluation of the effectiveness in achieving corrective action goals;
4. The locations and methods to be utilized to verify that corrective action goals have been met;
5. A plan for abandoning or decommissioning corrective action systems after verification that corrective action goals have been met;
6. Copies of all permits that have been obtained and a list of all other permits that may be required;
7. Additional information that the eligible person or the corrective action service provider preparing the work plan determines is necessary for the Department to approve the work plan.

L. A work plan for responding to contaminated soil, groundwater, and waters of the United States that meets the requirements of subsections (H) and (K) shall be approved by the Department if the eligible person demonstrates, pursuant to subsection (K)(1), that the full horizontal and vertical extent of contamination has been characterized and, through the work plan, that its implementation will protect human health, safety, and the environment. In making this determination, the Department shall consider the following:

1. The physical and chemical characteristics of the regulated substance, including its toxicity, persistence, and potential for migration;
2. The hydrogeologic characteristics of the facility and surrounding area;
3. The proximity, quality, and current and future uses of nearby waters of the United States and groundwater;
4. The potential effects of residual contamination on nearby waters of the United States and groundwater;
5. An exposure assessment;
6. Any information assembled in compliance with A.R.S. § 49-1005.

M. The review and approval or denial of an application for pre-approval shall be in accordance with the following:

1. The Department shall determine on a site by site basis, if the work plan submitted for pre-approval is the most cost effective corrective action for that site taking into consideration the risk to human health and the environment.
2. The Department shall approve or deny an application for pre-approval within 90 days. The 90-day period shall begin on the date the Department receives the application and shall end on the date the approval or denial is mailed:
   a. If the Department sends a statement of technical deficiencies, the period of days taken to deliver the statement and for the eligible person to submit a revised application shall not accrue to the 90-day period.
   b. If the Department sends a determination of assurance account ineligibility in accordance with A.R.S. Title 49, Chapter 6, Article 3, the period of days taken to deliver the statement and for the ineligible person to establish eligibility shall not accrue to the 90-day period.
3. Before the Department makes a final determination of approval or denial of the pre-approval application, the eligible person may elect any of the following options:
   a. Notwithstanding subsection (B), if the Department has not made a determination of technical deficiencies within 60 days of the date the Department receives the application, or if the Department has not made a final determination approving or denying an application within 90 days, computed in accordance with subsection (M)(2), of the date the Department receives the application, the eligible person may begin corrective action activities which are the subject of the pre-approval application by providing notice to the Department in accordance with subsection (B), but shall not incur the 15-point penalty provided under that subsection. The eligible person shall receive five points for pre-approval in accordance with R18-12-606(E) and shall be ranked for payment in a regular round in accordance with either of the following:

i. To the extent that work set forth in the pre-approval application reflects work that is subsequently approved, the regular round for such approved work shall be based on the date the Department receives the pre-approval application,

ii. To the extent that work set forth in the pre-approval application reflects work that is subsequently denied, the regular round for such denied work shall be based on the date the Department receives the application for reimbursement of corrective action costs for such work. The application for reimbursement for such work shall be subject to all provisions of this Article except this Section.

b. If the eligible person proceeds with corrective action before day 61, none of the five priority points for pre-approval shall accrue under R18-12-606(E) and the eligible person may elect to do either of the following:

i. Comply with the provisions of subsection (B) of this Section.

ii. Not comply with the provisions of subsection (B) of this Section and receive no payment under this Article for corrective action activities which are the subject of the pre-approval application.

4. If the Department determines that the pre-approval application is complete and the application demonstrates that the requirements of this Section have been met, the Department will inform the eligible person, by certified mail, that the request for pre-approval, including any specific requirements determined by the Department, is approved.

5. If the Department determines that the application for pre-approval fails to meet the requirements of this Section, the Department shall send the eligible person, by certified mail, a statement of technical deficiencies. The Department may include with the statement, any part of the application found to be deficient. The eligible person shall have 30 days from the date of receipt, as evidenced by the date on the return receipt, to correct all technical deficiencies and submit a revised pre-approval application to the Department. The Department shall consider the date of submission of the revised pre-approval application to be the postmarked date or date a hand-delivered application is date-stamped by the Department.

6. If, after the Department receives the revised application, and the Department determines that the application meets the requirements of this Section, the Department shall inform the eligible person, by certified mail, that the request for pre-approval, including any specific requirements determined by the Department, is approved.

7. The Department shall deny, in writing by certified mail, a pre-approval application that is not revised and returned to the Department within 30 days from the date of delivery of the deficiency statement to the eligible person.

8. The Department shall deny, in writing by certified mail, a pre-approval application that is revised and returned to the Department within 30 days, but which remains deficient.

9. The Department shall not make more than one finding of technical deficiencies before it denies a pre-approval application. All technical deficiencies not included in the statement of technical deficiencies shall be deemed acceptable if such technical deficiencies are not directly related to or a consequence of the deficiencies set forth in the statement of technical deficiencies. In no case shall technical deficiencies which violate A.R.S. § 49-104 be deemed acceptable.

N. Before payment will be made in accordance with A.R.S. Title 49, Chapter 6, Article 3 for work associated with an approved work plan the Department shall review both of the following:

1. Information submitted to ADEQ detailing the work completed for consistency with the approved work plan. Work and its associated costs which are not consistent with the approved work plan will be paid only if the work meets the requirements of subsections (O) through (Q) of this Section.
2. Invoices and bills submitted for consistency with subsection (N)(1) of this Section, and the approved work plan. The Department shall not make payment from the assurance account for invoices and bills which are in excess of the detailed estimate of costs in accordance with subsection (G)(2) pre-approved by the Department.

O. Work conducted outside the scope of the pre-approved work plan shall be reviewed by the Department and paid by the assurance account as follows:

1. If the Department determines that the completed work and associated invoices and bills are reasonable and necessary in accordance with subsection (P) of this Section, and the total of all inconsistent and consistent invoices and bills are within the total pre-approved cost, the Department shall pay the inconsistent costs in accordance with the pre-approved work plan.
2. If the Department determines that the completed work and associated invoices and bills are reasonable and necessary in accordance with subsection (P) of this Section, and the total of all inconsistent and consistent invoices and bills exceeds the total pre-approved cost, the Department shall pay the amount in excess in accordance with R18-12-606 using the date the invoices and bills are submitted to the Department and the priority points allocated to the pre-approved application.

P. For the costs of all corrective action work conducted outside the scope of the pre-approved work plan the Department shall determine if those costs were reasonable and necessary, taking into consideration all of the following:

1. In accordance with R18-12-605, the technical and financial reasonableness of the work.
2. The objectives and contingencies of the pre-approved work plan.
3. Documentation submitted by the eligible person setting forth either of the following:
   a. That the costs of the deviation associated with the inconsistent invoices and bills were the direct result of the occurrence of an act of war, an act of God, a legal constraint, or an act or omission of a 3rd party other than an employee or agent of the eligible person.
   b. That the costs of the deviation associated with the inconsistent invoices and bills were less than or equal to the costs of the applicable line item in the approved work plan.

Q. The Department shall make payment from the assurance account as follows:

1. All costs incurred by the eligible person in complying with the submission requirements of this Section which meet the financial and technical reasonableness requirements of R18-12-605 shall be paid.
2. For eligible persons who incur costs in accordance with subsections (D), (E), or (F) all costs shall be reviewed, in

accordance with Title 49, Chapter 6, Article 3 and R18-12-605, at the time of submission of the reimbursement application to the Department for payment. Eligible persons in compliance with subsections (D), (E), or (F) shall receive the five points for pre-approval under R18-12-606(E).

3. For eligible persons who elect to notify the Department in accordance with subsections (B) or (M)(3)(a) of this Section, all costs shall be reviewed, in accordance with Title 49, Chapter 6, Article 3 and R18-12-605, at the time of submission of the reimbursement application to the Department for payment.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6 pursuant to A.R.S. § 49-1014, and §§ 49-1052 (B) and (O), effective August 15, 1996 (Supp. 96-3).

R18-12-608. Reduction in Reimbursement

A. Pursuant to A.R.S. § 49-1053, the Department shall determine whether a reduction in reimbursement is justified. The Department shall determine the amount of reduction by employing a reduction calculation. Any reduction determined under this Section shall be applied to the claim after any adjustments are made in accordance with R18-12-601 through R18-12-607.

B. The Department shall determine whether any reduction is necessary by calculating a final numerical score for each claim submitted for reimbursement. The final numerical score is the sum of violation points assigned in accordance with subsections (C), (D), and (E). The final numerical score shall determine the total percentage reduction applied to a given claim.

C. The Department shall identify and calculate points for each violation of the UST regulatory program. The Department shall take into consideration the likely impact of the violation on human health and the environment, and the lack of due care as evidenced by the violation. To calculate the violation points identified with a specific violation, the Department shall assign one to three points per violation for the relative likely impact and one to three points per violation for relative lack of due care. Appendix A lists UST regulatory program violations and the corresponding violation points.

D. The Department shall assign additional points per violation for the following determinations: Two points where noncompliance is determined to be negligent, or five points where the noncompliance is determined to have been done knowingly, or six points where noncompliance is determined to have been done wilfully. For the purposes of A.R.S. Title 49, Chapter 6, negligent, knowingly, and wilful have the same meaning as A.R.S. §§ 1-215(20), 1-215(12), and 1-215(36), respectively.

E. The Department shall evaluate whether there is full cooperation with the Department in response to a release by assessing whether each element of corrective action is accompanied by full cooperation. "Cooperation" means written communication with the Department regarding compliance with the UST regulatory program which is both timely and responsive, accompanied by a good faith effort to come into compliance with the requirements of the UST regulatory program. "Timely" means accomplished within a specific statutory or regulatory deadline or a specific deadline imposed by the Department in writing. Any deadline extension which is granted by the Department before the original deadline is passed, and which is met, is timely for the purposes of the extension. The Department shall assign points for failure to fully cooperate. Failure to fully cooperate in a given element will result in the assignment of ten points for that element. Failure to cooperate in all five elements of corrective action will result in the assignment of 50 points. For purposes of this subsection, the following are identified as the elements of corrective action:

1. Initial response and site check.
2. Initial abatement measures and initial site characterization.
3. Removal of free product.
4. Investigations for soil, surface water, and groundwater contamination.
5. Responses to contaminated soil, surface water, and groundwater.

F. The Department shall determine the reduction in reimbursement, if any, based upon the total numerical score calculated in accordance with this Section. The percentage of reduction is identified as follows: a claim assigned a score of ten points or less will result in no reduction in reimbursement. A claim assigned 11 points will result in a 1% reduction. Each additional point assigned will result in an additional 1% reduction. Claims which are assigned 110 or more points will result in a 100% reduction in reimbursement.

Historical Note

Emergency rule adopted effective September 21, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency expired. Emergency rule adopted again effective January 13, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-1). Adopted permanently with changes effective April 15, 1993 (Supp. 93-2).

APPENDIX A

SAF REDUCTION IN REIMBURSEMENT
Violation Checklist: Page 1

REGULATORY CITATION	VIOLATIONS	LIKELY IMPACT POINTS	LACK OF DUE CARE POINTS
	NOTIFICATION REQUIREMENTS		
A.R.S. 49-1002 (40 CFR 280.22)	Failure to notify the Department of the existence of all known UST systems or to provide complete certification of all required information on Notification forms.	3	3
	TASK PERFORMANCE STANDARDS/GENERAL OPERATING REQUIREMENTS		
A.R.S. 49-1009 (40 CFR 280.20)	Installation of an UST system which is not designed to prevent releases due to corrosion or structural failure for the operational life of the system; installation after December 22, 1988, of an UST system that fails to meet accepted industry codes and standards for design and construction, or improper installation of an UST system.	3	3
A.R.S. 49-1009 (40 CFR 280.32)	Installation or use of an UST system which is made of or lined with materials which are not compatible with the regulated substance stored in or dispensed from the UST system.	3	3
(40 CFR 280.21)	Failure to meet all standards for upgrading an UST system after December 22, 1998.	3	3
(40 CFR 280.30)	Failure to take actions to prevent spills or overfills, or to report, investigate, and clean up any spill or overfill.	3	3
(40 CFR 280.31)	Failure to properly operate, maintain, test, or inspect a cathodic protection system, or to maintain every record of cathodic protection system inspections.	2	2
(40 CFR 280.33)	Failure to repair and/or replace an UST system or parts of an UST system in accordance with accepted codes and standards and/or manufacturer's specifications.	2	3
(40 CFR 280.33)	Failure to ensure that repaired UST systems are tightness tested within 30 days of completion of repair.	2	3
(40 CFR 280.33)	Failure to test cathodic protection system within six months of repair of a steel UST system.	2	2
(40 CFR 280.33)	Failure to maintain records of each repair to an UST system.	1	1
A.R.S. 49-1009	Failure to perform or cause to be performed a tightness test to determine compliance, as required by the Department.	2	3

APPENDIX A

SAF REDUCTION IN REIMBURSEMENT
Violation Checklist: Page 2

REGULATORY CITATION	VIOLATIONS	LIKELY IMPACT POINTS	LACK OF DUE CARE POINTS
	RELEASE DETECTION & RECORDKEEPING REQUIREMENTS		
A.R.S. 49-1003 (40 CFR 280.40)	Failure to provide release detection which can detect a release from any portion of the tank that routinely contains product, or to close any UST system that cannot meet release detection requirements, by the required phase-in-date.	3	3
A.R.S. 49-1003 (40 CFR 280.40)	Failure to install, calibrate, or maintain a release detection method in accordance with manufacturer's instructions.	3	3
A.R.S. 49-1003 (40 CFR 280.41)	Failure to apply a method of release detection as required for a petroleum UST system.	3	3
A.R.S. 49-1003 (40 CFR 280.42)	Failure to install double-walled tanks and secondary containment as required for hazardous substance USTs installed after December 22, 1988; failure to apply a method of release detection as required for a hazardous substance UST system.	3	3
A.R.S. 49-1003 (40 CFR 280.45)	Failure to maintain any records of release detection monitoring, including results of sampling, testing, or monitoring for release detection for at least one year.	2	3
A.R.S. 49-1003 (40 CFR 280.45)	Failure to maintain every record of release detection for at least one year; failure to retain results of tightness testing until next test is conducted.	1	1
A.R.S. 49-1003 (40 CFR 280.45)	Failure to document all release detection performance claims for five years after installation, where applicable.	1	1
A.R.S. 49-1003 (40 CFR 280.45)	Failure to document any or every calibration, maintenance, and repair of release detection for at least one year.	1	2
A.R.S. 49-1003 (40 CFR 280.45)	Failure to maintain manufacturer's schedule of required calibration and maintenance for five years.	1	2
	FINANCIAL RESPONSIBILITY		
A.R.S. 49-1006 (40 CFR 280.93)	Failure to maintain any financial responsibility assurance coverage; failure to meet the financial responsibility requirements for per-occurrence and annual aggregate coverage in full; failure to establish evidence of financial responsibility consistent with the requirements of 40 CFR 280.90 through 40 CFR 280.111.	3	3
	FEES & TAXES		
A.R.S. 49-1020	Failure to pay the annual tank fee.	1	2
A.R.S. 49-1032	Failure to file the annual tax return; failure to pay the tax.	1	2

APPENDIX A

SAF REDUCTION IN REIMBURSEMENT
Violation Checklist: Page 3

REGULATORY CITATION	VIOLATIONS	LIKELY IMPACT POINTS	LACK OF DUE CARE POINTS
	INSPECTION		
A.R.S. 49-1011	Failure to furnish to the Department information relating to a UST system, as required by the Department.	2	3
A.R.S. 49-1011	Failure to permit the Department to conduct monitoring and testing of a UST system or the surrounding soils, air, surface water or groundwater, as required by the Department.	3	3
	CLOSURE		
A.R.S. 49-1008 (40 CFR 280.70)	Failure to continue operation and maintenance of cathodic protection system in a temporarily closed UST system.	2	3
A.R.S. 49-1008 (40 CFR 280.70)	Failure to continue operation and maintenance of release detection in a temporarily closed UST system which contains a regulated substance.	3	3
A.R.S. 49-1008 (40 CFR 280.70)	Failure to permanently close or upgrade a temporarily closed UST system after 12 months of temporary closure.	1	2
A.R.S. 49-1008 (40 CFR 280.71)	Failure to notify the Department of a temporary or permanent closure, or change in service, 30 days in advance.	2	3
A.R.S. 49-1008 (40 CFR 280.71)	Failure to temporarily or permanently close an UST system, or accomplish a change in service, in a safe and secure manner which prevents the release of regulated substances; failure to remove an UST system from the ground or fill it with an inert material.	2	3
A.R.S. 49-1008 (40 CFR 280.72)	Failure to measure for the presence of a release where contamination is most likely to be present, before closure of an UST system, or change in service.	3	2
A.R.S. 49-1008 (40 CFR 280.73)	Failure to assess the excavation zone and close in accordance with 40 CFR 280.70-74, as required by the Department, an UST system which was permanently closed before December 22, 1988.	3	2
A.R.S. 49-1008 (40 CFR 280.74)	Failure to maintain closure records or change in service records for at least three years.	2	2
	RELEASE REPORTING AND INVESTIGATION REQUIREMENTS		
A.R.S. 49-1004 (40 CFR 280.50)	Failure to report to the Department a suspected or confirmed release (including spills and overfills) within 24 hours of discovery of the release.	3	3
A.R.S. 49-1004 (40 CFR 280.52)	Failure to report to the Department in writing, within 14 days of the 24-hour report, the required information regarding a suspected release, including the nature of the release and corrective actions taken and planned.	3	3
A.R.S. 49-1004 (40 CFR 280.52)	Failure to investigate and confirm a release using accepted procedures; failure to perform or cause to perform a tank test to confirm a release, as requested by the Department.	3	3

APPENDIX A

SAF REDUCTION IN REIMBURSEMENT Violation Checklist: Page 4			
REGULATORY CITATION	**VIOLATIONS**	**LIKELY IMPACT POINTS**	**LACK OF DUE CARE POINTS**
	CORRECTIVE ACTION		
A.R.S. 49-1005 (40 CFR 280.60)	Failure to take corrective actions in response to soil, surface water and groundwater, as required by the Department.	3	3
A.R.S. 49-1005 (40 CFR 280.61)	Failure to take immediate action to stop the release and identify hazards (within 24 hours).	3	3
A.R.S. 49-1005 (40 CFR 280.53)	Failure to contain and immediately clean up a spill or overfill of petroleum that is less than 25 gallons.	2	3
A.R.S. 49-1005 (40 CFR 280.53)	Failure to contain and immediately clean up a spill or overfill of a hazardous substance that is less than the reportable quality.	2	3
A.R.S. 49-1005 (40 CFR 280.62)	Failure to initiate free product removal as soon as practicable.	3	3
A.R.S. 49-1005 (40 CFR 280.64)	Failure to submit a report on free product removal with 45 days of confirmation of release (or other time specified by the Department).	2	3
A.R.S. 49-1005 (40 CFR 280.64)	Failure to submit a plan for automatic continuous free product removal within the time period specified by the Department.	2	3
A.R.S. 49-1005 (40 CFR 280.63)	Failure to submit a site characterization report within the time period specified by the Department.	2	3
A.R.S. 49-1005 (40 CFR 280.65)	Failure to determine the full extent of contamination, and characterize the contamination by constituents and concentrations.	3	3
A.R.S. 49-1005 (40 CFR 280.65 & 40 CFR 280.66)	Failure to submit any or every quarterly monitoring report subsequent to installation of groundwater monitoring wells, as specified by the Department.	2	3
A.R.S. 49-1005 (40 CFR 280.66)	Failure to submit a corrective action plan as required by the Department.	2	3
A.R.S. 49-1005 (40 CFR 280.66)	Failure to implement a corrective action plan as required by the Department.	3	3

Historical Note

Emergency rule adopted effective September 21, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Emergency expired. Emergency rule adopted again effective January 13, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-1). Adopted permanently with changes effective April 15, 1993 (Supp. 93-2).

R18-12-609. Payment Determinations; Disagreements

A. When a payment determination is made under this Article, the Department shall inform the applicant in writing of all the following:
1. The original amount of the applicant's claim.
2. Any and all reductions or adjustments which reduce or change the original claim amount.
3. A summary of the determinations which were made to arrive at the final payment amount.

B. If an applicant receiving a payment determination under subsection (A) disagrees with that determination, the applicant shall notify the Department in writing of those specific parts of the determination with which the applicant disagrees. The notification of disagreement shall be returned to the Department within ten days after the date of the issuance of the payment determination. The Department shall reconsider the payment determination in light of the notice of disagreement made by the applicant and may change the payment amount if appropriate.

C. Within 15 days after making a payment determination under subsection (A), or within 15 days after receiving a notification of disagreement if one is filed, the Department shall issue a warrant for the payment determination amount, with an explanation of any difference between the warrant amount and the original payment determination amount. The warrant and any explanation made under this subsection, subsection (B), or both shall be considered the Department's final determination.

D. Any final determination shall advise the applicant of the appeal procedures described in R18-12-610.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).

R18-12-610. Appeals

A. Any applicant aggrieved by a final determination of the Department under R18-12-609 may appeal the determination by filing a request for a hearing within 30 days after the receipt of the final determination. The request for hearing shall specify which portions of the final determination are being disputed and the nature of the appellant's dispute.

B. Within 30 days after receipt of a request for a hearing, the Department shall appoint or, if permitted by law, request that the Department of Administration appoint a hearing officer and otherwise conduct a contested case hearing in accordance with the procedures established in A.R.S. §§ 41-1061 through 41-1066 and R18-1-201 through R18-1-219.

C. The hearing officer shall issue a recommended decision in writing within 30 days after the close of evidence in the contested case hearing. The recommended decision shall contain proposed findings of fact and conclusions of law and a proposed order for the Director's signature. Within 15 days after receipt of the recommended decision, any party to the hearing shall be entitled to submit written comments on the recommended decision for consideration by the Director. Within 60 days of the issuance of the recommended decision, the Director shall issue a final decision, which shall adopt, modify, or reverse the recommended decision of the hearing officer.

D. During the pendency of an appeal under this Section, any amount in dispute shall be placed in a separate reserved account until the final determination of the appeal.

Historical Note
Adopted effective September 21, 1992 (Supp. 92-3).

ARTICLE 7. UNDERGROUND STORAGE TANK GRANT PROGRAM

R18-12-701. Allocation of Grant Account Funds

The Department shall determine the total amount of funds in the grant account on the last day of the application submission period. Subject to the provisions of A.R.S. § 49-1015(A), the Department shall allocate the total amount of available funds as follows:

1. Up to and including 5.0% of the total amount of available funds shall be allocated for the expenses incurred by the Department in administering the fund.
2. Of the total amount available after the allocation for administrative expenses, an amount for use by applicants classified as local governments shall be reserved based on the number of active facilities, developed from the UST database, in accordance with the following formula:

   Percentage amount reserved for local governments = number of local government facilities ÷ the total number of facilities, excluding state and federal facilities.
3. Funds remaining, after subtracting the amounts determined under subsections (A)(1) and (2) from the total amount in the grant account, shall be reserved for applicants classified as other than local governments.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2).

R18-12-702. Eligible Projects

A. An owner or operator of a UST may apply to the Department, during an application submission period, for a grant for the purpose of funding any of the following eligible projects:

1. Installing a leak detection system that meets the requirements of A.R.S. § 49-1003 and the rules promulgated thereunder.
2. Upgrading a UST system by the addition of spill prevention, overfill prevention, or corrosion protection that meets the requirements of A.R.S. § 49-1009 and the rules promulgated thereunder.
3. Replacing a non-complying UST with a UST of equal or smaller volume that meets the requirements of A.R.S. § 49-1009 and the rules promulgated thereunder. The eligible project may include the cost of removing of the existing UST system. Removal of an existing UST system shall meet the requirements of A.R.S. § 49-1008 and the rules promulgated thereunder.
4. Paying the portion of necessary and reasonable corrective action expenses not covered by the assurance account as prescribed in A.R.S. § 49-1054. The corrective action shall meet the requirements of A.R.S. § 49-1005 and the rules promulgated thereunder.
5. Removing a UST from the ground if the UST will not be replaced and the removal meets the requirements of A.R.S. § 49-1008 and the rules promulgated thereunder.
6. Paying for expedited review of the applicant's workplan, site characterization reports, corrective action plans, monitoring reports, and other information as prescribed in A.R.S. § 49-1052.

B. An eligible project shall be limited to the work specified in the application, which shall be approved by the Department pursuant to R18-12-709. An eligible project shall not include any of the following:

1. Adding to or altering of all or part of any building or appurtenant structure at the facility.
2. Demolishing a building or appurtenant structure at the facility unless the demolition is necessary to complete the eligible project. If demolishing a building or appurtenant structure is necessary to complete the eligible project, grant funds shall not be used to reconstruct or replace all or part of the building or appurtenant structure demolished.
3. Resurfacing with new materials of a kind and quality exceeding those in place before beginning the project. Resurfacing shall be limited to the minimum area of surfacing required to be removed or destroyed during the project. Resurfacing shall not include the cost of replacing islands unless necessary for the continued operation of the facility as demonstrated in the business plan required under R18-12-708.
4. Replacing or refurbishing dispensers, canopies, awnings, or similar items that are not part of the actions necessary to comply with the statutory requirements for the project set forth in subsection (A).

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2).

R18-12-703. Amount of Grant Per Applicant or Facility

A. Under this Article, the Department shall grant to any owner or operator a maximum of $100,000. If the owner and the operator are the same person, a maximum of $100,000 shall be granted to that person.

B. Under this Article, the Department shall grant a maximum of $100,000 for eligible projects to be completed at any one facility.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2).

R18-12-704. Grant Application Submission Period

A. The Department shall establish the beginning and ending dates of each grant application submission period. The Department shall publish the dates of each submission period in the public

notices section of the *Arizona Republic* newspaper and in the *Underground Storage Tank News*, a quarterly newsletter published by the Department and available at the Department upon request.

B. The Department shall consider an application to be received on the date the application is postmarked or, if hand delivered, on the date stamped on the application by the Department. The Department shall not consider an application received after the ending date of the submission period.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2).

18-12-705. Grant Application Process

A. In accordance with the provisions of R18-12-706(A), an owner or operator shall submit to the Department during a grant application submission period described in R18-12-704 all of the information described in R18-12-706, except that the surety bond, general liability insurance, mechanic's lien, and contract, if required under R18-12-706(D)(2), may be submitted separately from the work plan. If the owner or operator elects to submit separately the proof of surety bond, general liability insurance, mechanic's lien, or contract, then the owner or operator shall submit that information to the Department not later than 60 days after receiving the Department's notice of grant issue approval under R18-12-714(A), measured from the date of the certified mail return receipt, otherwise the grant issue shall be forfeited in accordance with R18-12-714(D). The Department shall not issue a warrant for the payment of the grant if the Department has not received all information required under this Article.

B. After the close of the submission period, the Department shall review grant applications in the order received and allocate priority ranking points to each application in accordance with R18-12-711 or R18-12-712. If no priority points are allocated under R18-12-711(B)(3)(a) or R18-12-712(B)(1), the Department shall inform the applicant in writing that the application has been rejected.

C. If an application is not rejected, the Department shall review the application and determine whether there are deficiencies in the information submitted. The Department shall inform the applicant in writing of any deficiencies and of the resubmission provisions under R18-12-709(B).

D. If a grant application involves either upgrading a UST system with corrosion protection under R18-12-702(A)(2) or replacing a UST system under R18-12-702(A)(3), the Department shall determine the feasibility of upgrading the system in accordance with the requirements of R18-12-710.

E. Following the end of the resubmission period, the Department shall determine which applicants are to receive grant funds in accordance with R18-12-713 and make payments in accordance with R18-12-714.

F. The Department shall accept for consideration grant applications and grant application resubmissions that are submitted before or after commencement or completion of the work that is the subject of the grant application or application resubmission.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2). Amended effective October 21, 1998 (Supp. 98-4).

R18-12-706. Grant Application Contents

A. An owner or operator seeking a grant to fund an eligible project as described in R18-12-702 shall submit to the Department an application on a form provided by the Department. The application may contain information on more than one project at the facility if all requirements under this Article are met for each project. If the same information is required for more than one project on the same application, the information shall be included only once and a reference made on the application to that information.

B. The application shall contain all of the following information:
1. The name, daytime telephone number, and mailing address of the applicant;
2. The federal employer identification (tax) number or social security number of the applicant;
3. A description of the applicant's status as either an owner or operator and classification as either a local government or other than local government;
4. The total number of UST facilities owned or operated by the applicant;
5. The UST owner identification number assigned by the Department to the person who owns the facility where the eligible project was or will be conducted;
6. The name and daytime telephone number of a person the Department may contact if there are questions regarding the application or its attachments.

C. The application shall contain all of the following information regarding the facility and UST on which the eligible project was or will be conducted:
1. The facility name, site address, and the associated County Assessor book, map, and parcel number;
2. The UST facility identification number assigned by the Department;
3. The date of installation of the UST;
4. The regulated substance stored in the UST over the past 12 months;
5. The Leaking Underground Storage Tank number assigned by the Department to any releases at the facility;
6. A statement as to whether the facility is involved in marketing regulated substances from UST systems;
7. The distance, in miles, from the facility to the nearest alternative source of the same regulated substance as stored in the UST system;
8. If the eligible project is described under R18-12-702(A)(1) through (3), a business plan prepared in accordance with R18-12-708.

D. An application, except an application for a corrective action grant as described in R18-12-702(A)(4) or an application for expedited review as described in R18-12-702(A)(6), shall contain the information required by subsections (D)(1), (2), (3), (4), (5) and (8) for the eligible project. An application for a corrective action grant as described in R18-12-702(A)(4) shall contain the information required by subsections (D)(1), (2), (3), (5), (6) and (8). An application for an expedited review as described in R18-12-702(A)(6) shall contain the information required by subsections (D)(1), (3), (5) and (7).
1. A statement of the kind of eligible project as listed in R18-12-702(A).
2. A work plan which meets the requirements of R18-12-707. The work plan shall be the basis for cost bids submitted with the application.
3. The total amount of grant funds requested. If the amount requested is based on three cost bids that are required under (D)(4), then the amount requested shall be the lowest of the cost bids.
4. Three written, detailed, firm, fixed cost bids for completing the eligible project. All three cost bids shall be for projects that will use the same methodology to achieve compliance with the regulatory requirements for the project and shall include for each itemized cost a description of the kind of work, equipment, or materials and any labor, transportation, or other activities that constitute the

itemized cost. Each itemized cost shall refer to the specific item or portion of the work plan that describes that cost.

5. The total amount of costs incurred for professional services directly related to the preparation of the grant application.
6. If the eligible project is a corrective action as described in R18-12-702(A)(4), then the grant applicant shall also include a copy of the direct payment or reimbursement determinations for that corrective action issued by the Department in accordance with R18-12-609, otherwise the applicant shall include a statement that the information identified at R18-12-601 through R18-12-607.01 was submitted to the Department as required for the Department to make the SAF preapproval, direct payment, or reimbursement determinations.
7. If the eligible project is an expedited review as described in R18-12-702(A)(6), the application shall identify the documents the applicant is requesting be reviewed on an expedited basis. A schedule of costs for an expedited review of documents shall be used to determine the grant amount. The schedule of costs shall include each type of document and the corresponding cost for the expedited review of that document.
8. The name and address of each service provider, including subcontractors, that performed, or will perform, services required to conduct the eligible project, and all of the following information for each service provider:
   a. Identification as a consultant, contractor, engineer, subcontractor, tester, or other professional classification and whether a license from the Board of Technical Registrations is required for the profession;
   b. Contractor license number issued by the Registrar of Contractors;
   c. License number issued by the Board of Technical Registrations;
   d. The name and daytime telephone number of the project contact person.

E. An applicant applying on behalf of an individual, or a firm classified as other than local government, shall submit to the Department the information described in subsections (E)(1) through (3) and, if applicable, (E)(4).

1. For all applicants, the balance sheet from the most recent completed fiscal year for the firm, and all prepared notes and schedules to the balance sheet. The closing date of the balance sheet shall not be more than one year from the date of the application. The balance sheet shall include all of the following:
   a. Total assets and total liabilities,
   b. Total intangible assets,
   c. Total current assets and total current liabilities, and
   d. Current year-end net worth.
2. For individuals and sole proprietorships, the applicant's personal financial statement that meets all of the requirements of subsection (E)(1).
3. For partnerships, limited liability companies and S corporations, the personal financial statement that meets the requirements of subsection (E)(1) for each owner of 20% or more of the firm.
4. For applicants who wish to be eligible for priority ranking points under R18-12-711(G), a copy of the most current federal and state annual income tax returns that show all of the following:
   a. Total revenues and total expenses, and
   b. Total revenues from operation of UST facilities.

F. If the applicant firm is a wholly owned subsidiary, the applicant shall provide to the Department a copy of all documents required under subsection (E) for the parent firm. The Department shall determine financial need based upon the financial statements of the parent firm.

G. If an application is made on behalf of a nonprofit or not-for-profit entity organized under the provisions of A.R.S. Title 10, the applicant shall submit to the Department a copy of the letter from the Corporation Commission granting nonprofit or not-for-profit status and the most recent year-end balance sheet and all prepared notes and schedules to the balance sheet. The closing date of the balance sheet shall not be more than one year from the date of the application. The balance sheet shall include all of the following:

1. The information described under subsections (E)(1)(a) through (d);
2. Current year-end and the prior year-end reserved and designated fund balances;
3. Current year-end and the prior year-end unreserved and undesignated fund balance;
4. If the applicant wishes to be eligible for priority ranking points under R18-12-711(G), a copy of the most recent year-end statement of revenues and expenses prepared simultaneously with the balance sheet that shows all of the information required under subsections (E)(4)(a) and (b).

H. If application is made on behalf of a local government, the applicant shall submit to the Department a copy of the balance sheet for the most recent completed fiscal year and all prepared notes and schedules to the balance sheet. The closing date of the balance sheet shall not be more than one year from the date of the application. The balance sheet shall include all of the following:

1. Current year-end and the prior year-end reserved and designated fund balances,
2. Current year-end and the prior year-end unreserved and undesignated fund balance, and
3. Total current assets and total current liabilities.

I. The applicant shall sign, have notarized, and attach to the application a certification statement that, to the applicant's best information and belief, all information provided on the application and attachments to the application is true and complete.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2). Amended effective October 21, 1998 (Supp. 98-4).

R18-12-707. Work Plan

A. A work plan for a grant for an eligible project under R18-12-702(A)(1) through (3) shall contain all of the following:

1. A site plan, drawn to scale, that includes a diagram of the facility showing the location of each UST involved in the project, the access routes to each UST involved, obstructions to access to each UST including natural or artificial barriers, canopies, buildings, and other structures.
2. A plan or report of the specific material or equipment installation or removal activities.
3. A timetable for the incremental steps and completion of the project tasks not yet commenced or completed.
4. The specifications and certifications provided by the manufacturer or a 3rd party for all equipment the installation of which is the subject of the grant application, including 3rd-party certification of performance standards for probability of detection and probability of false

alarm for leak detection equipment in accordance with A.R.S. § 49-1003.

5. If the eligible project includes the installation of a cathodic protection system under R18-12-702(A)(2) or R18-12-702(A)(3), the engineering plan for the installation of the system prepared by a corrosion expert and supporting documents that demonstrate the effectiveness of the system under the site-specific conditions.
6. The original or duplicate of an American Institute of Architects surety bond form A311 with a penal sum in the amount of the contract, which names the Department and the applicant as dual obligees and the contractor as principal for each service provider on the eligible project, and which provides that a lawsuit under the bond may be filed within two years from the date on which final payment under the contract falls due. The surety company issuing the bond shall be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury, Washington, D.C., as amended on June 30, 1995, and no future editions, incorporated by reference and on file with the Department of Environmental Quality and the Office of the Secretary of State.
7. A copy of the comprehensive general liability insurance policy or a certificate of insurance for the general liability insurance policy providing coverage for each contractor who will provide services during the eligible project. The comprehensive general liability insurance policy shall have a minimum limit of liability of $1,000,000, include coverage for pollution liability, and name the Department as a named insured for any liabilities incurred in relation to the eligible project.
8. A copy of any mechanics' lien placed on the facility or the equipment at or to be installed at the facility in conjunction with the eligible project.
9. A copy of each contract signed by the owner or operator concerning the eligible project.

B. A work plan for a grant for an eligible project under R18-12-702(A)(4) shall consist of the information required under subsections (A)(7) through (9), except that the contractor comprehensive general liability insurance policy is not required to include coverage for pollution liability.

C. A work plan for a grant for an eligible project under R18-12-702(A)(5) shall comply with the requirements of subsections (A)(1) through (4), and (A)(6) through (9) and contain provisions for compliance with the standards of the American Petroleum Institute Publication 1604, "Removal and Disposal of Used Underground Petroleum Storage Tanks," amended December 1987, Supplement March 1989, Washington, D.C., and no future editions, incorporated by reference and on file with the Department and the Secretary of State.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2). Amended under an exemption from A.R.S. Title 41, Chapter 6 pursuant to A.R.S. § 49-1014, and §§ 49-1052 (B) and (O), effective August 15, 1996 (Supp. 96-3). Amended effective October 21, 1998 (Supp. 98-4).

R18-12-708. Business Plan

A. An application for an eligible project under R18-12-702(A)(1) through (3) shall contain a business plan that demonstrates the potential for continued operation, for at least three years after issuance of the grant, of the facility at which the UST is located. The business plan shall contain all of the following:

1. A description of the current operations of the applicant which contains all of the following:
   a. The designation of the applicant as an individual, sole proprietorship, general partnership, limited partnership, C-corporation, S-corporation, joint venture, nonprofit or not-for-profit entity, local government, or another specified form of legal organization;
   b. The nature of the operation and its history during its life or the last three years, whichever is the shorter period;
   c. A discussion of the market in which the applicant operates, including the kinds of products and services provided, the geographic area served, and a general description of the size, growth, density, and distribution of the population served; and
   d. The number of employees and the number of hours worked per week by each.
2. A written statement of the job history and work experience of each owner or officer of the applicant and of each manager of the facility; and
3. A description of projected operations of the facility that includes all of the following:
   a. A description of planned changes to the operation of the facility. If no changes are planned, a statement of the reason for requesting a grant and how receipt of the grant will assist in continued operation of the facility; and
   b. An estimate of expected revenue and expenses by year for the three-year period following issuance of a grant. The estimate shall contain the major assumptions for:
      i. Revenue by source by year; and
      ii. Expenses, including annual debt service and contingent liabilities, by year.

B. The Department shall review the business plan in accordance with generally accepted accounting principles, to determine whether the business is a viable entity capable of continuing in business for three years following the grant issue. All of the following shall be considered:

1. Existence of a significant contingent liability,
2. History of profits or losses from operations,
3. Extent of owner equity,
4. Market potential,
5. Stability of key management personnel, and
6. Legality of operations.

C. The applicant shall have the financial statements required under this Section prepared in accordance with generally accepted accounting principles. A financial analysis by a certified public accountant shall not result in a qualification.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2).

R18-12-709. Review of Application

A. The Department shall review a grant application to determine whether the application contains all of the information required by this Article.

B. If the Department determines the application is not complete or otherwise fails to meet the requirements of this Article, the Department shall send to the applicant, by certified mail, a written statement of deficiencies. The Department may include in the mailing, any part of the application found to be deficient. The applicant shall have 30 days from the date of receipt, as evidenced by the date on the return receipt, to correct all deficiencies and resubmit the application or information to the Department. The Department shall consider the date the application is postmarked or hand delivered to be the date of resubmission to the Department. The Department shall not

consider an application that remains deficient at the end of the resubmission period.

C. If the Department determines that an application contains information required by this Article, the Department shall approve the application and place it in priority order in accordance with the provisions of R18-12-713.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2).

R18-12-710. Feasibility Determination

A. For eligible projects listed in R18-12-702(A)(2) and (3) that involve corrosion protection, the Department shall determine the feasibility of upgrading or replacing the UST. The Department shall base its feasibility determination on a report of internal inspection of the existing UST conducted by an Arizona licensed contractor. The inspection report shall include a certification by the contractor that the inspection was conducted in accordance with the American Petroleum Institute publication 2015, "Safe Entry and Cleaning of Petroleum Storage Tanks," (January, 1991) and the American Petroleum Institute publication 1631, "Interior Lining of Underground Storage Tanks," 2nd edition (December, 1987), and no later amendments or editions, both of which are incorporated by reference and on file with the Department and the Office of the Secretary of State.

B. The Department shall ensure that the amount of grant monies approved for an eligible project is consistent with the results of the feasibility determination. If the feasibility determination concludes that a UST can be upgraded with corrosion protection, but the application requests grant funds for replacing the UST, the Department shall not approve an amount in excess of the estimated cost of upgrading the UST. If a UST cannot be upgraded with corrosion protection, and the application requests grant funds to upgrade the UST, the Department may approve the amount of the estimated cost of replacing the UST.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2). Amended effective October 21, 1998 (Supp. 98-4).

R18-12-711. Criteria for Determining Priority Ranking Points for Applicants Other Than Local Governments

A. The Department shall allocate priority ranking points to a grant application for an owner or operator who is not a local government in accordance with this Section. The maximum number of priority ranking points is 105.

B. Subject to the provisions of subsections (B)(1) and (2) and in accordance with subsections (B)(3)(a) and (b), the Department shall allocate a maximum of 50 priority ranking points for financial need.

1. If the applicant is a Chapter S corporation, the balance sheets from the most current completed fiscal year for the corporation and for each person who owns 20% or more of the corporation shall be combined to determine the total tangible net worth, current assets, and current liabilities to be used in subsections (B)(3)(a) and (b).
2. If the applicant is a nonprofit or not-for-profit entity organized under A.R.S. Title 10, the total tangible net worth, current assets, and current liabilities used to determine the number of priority ranking points under subsections (B)(3)(a) and (b) may be reduced by any reserved and designated fund balances. All reserved and designated fund balances to be deducted shall appear on the balance sheet submitted in accordance with R18-12-706(G).
3. Priority ranking points shall be allocated as follows:
   a. A maximum of 25 priority ranking points shall be allocated based on the ratio, expressed as a percentage, of the grant request divided by tangible net worth. The tangible net worth shall be determined from the information submitted as required under R18-12-706(E) through (G) and the provisions of subsections (B)(1) and (2). If the applicant has a negative tangible net worth, 25 priority ranking points shall be allocated. If the indicated tangible net worth is positive, priority ranking points shall be allocated as follows:

PERCENTAGE	POINTS
20% or more	25 Points
16% up to but not including 20%	20 Points
12% up to but not including 16%	15 Points
8% up to but not including 12%	10 Points
4% up to but not including 8%	5 Points
Less than 4%	0 Points

   b. A maximum of 25 priority ranking points shall be allocated based on the ratio, expressed as a percentage, of total current assets divided by total current liabilities. Current assets and current liabilities shall be determined from the information submitted as required under R18-12-706(E) through (G) and subsections (B)(1) and (2). Priority ranking points shall be allocated as follows:

PERCENTAGE	POINTS
Less than 100%	25 Points
100% up to but not including 125%	20 Points
125% up to but not including 150%	15 Points
150% up to but not including 175%	10 Points
175% up to but not including 200%	5 Points
200% or more	0 Points

C. A maximum of 10 priority ranking points shall be allocated based on the date of installation of the tank as follows:

DATE OF INSTALLATION	POINTS
1. After December 22, 1988	0 Points
2. May 7, 1985 through December 22, 1988	3 Points
3. Before May 7, 1985	10 Points

D. If the program is described under subsection R18-12-702(A)(4) or (6), a maximum of 25 priority ranking points shall be allocated based on the threat to human health and the environment by the presence of an active leaking underground storage tank (LUST) site at the facility that is the subject of the eligible project as follows:

1. Active LUST site at the facility that has impacted groundwater	25 Points
2. Active LUST site at the facility that has not impacted groundwater	15 Points
3. No active LUST site at the facility	0 Points

E. A maximum of five priority ranking points shall be allocated based on the extent of the geographic area served depending on whether or not the facility markets regulated substances as follows:

1. Marketing facility5 Points
2. Other than Marketing facility0 Points

F. A maximum of 10 priority ranking points shall be allocated based on the distance to the nearest alternative source of regulated substance to the community as follows:

DISTANCE	POINTS
1. Less than 5 miles	0 Points
2. 5 miles up to 10 miles	5 Points
3. 10 miles or more	10 Points

G. An additional five priority ranking points shall be allocated to an applicant who, based on information in the application, meets all of the following:

1. Has annual total revenue of less than $1 million,

2. Derives at least 50% of annual total revenue from the operation of UST facilities, and
3. Owns or operates no more than two UST facilities.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2).

R18-12-712. Criteria for Determining Priority Ranking Points for Applicants That Are Local Governments

A. The Department shall allocate priority ranking points to a grant application of an owner or operator that is a local government in accordance with this Section. The maximum number of priority ranking points is 100, consisting of the points allocated in accordance with subsections (B) and (C).

B. The Department shall allocate a maximum of 50 priority points for financial need as follows:

1. A maximum of 25 priority ranking points shall be allocated based on the ratio, expressed as a percentage, of the grant request divided by total unreserved and undesignated fund balance. If the total unreserved or undesignated fund balance is negative, 25 priority ranking points shall be allocated. If the total unreserved or undesignated fund balance is positive, priority ranking points shall be allocated as follows:

PERCENTAGE	POINTS
20% or more	25 Points
16% up to but not including 20%	20 Points
12% up to but not including 16%	15 Points
8% up to but not including 12%	10 Points
4% up to but not including 8%	5 Points
Less than 4%	0 Points

2. A maximum of 25 priority ranking points shall be allocated based on the ratio, expressed as a percentage, of total current assets divided by total current liabilities. Current assets and current liabilities shall be determined from the balance sheet submitted in accordance with R18-12-706(H). Priority ranking points shall be allocated in accordance with R18-12-711(B)(3)(b).

C. Additional priority ranking points shall be allocated in accordance with R18-12-711(C) through (F).

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2). Amended effective October 21, 1998 (Supp. 98-4).

R18-12-713. Determination of Grants to Be Issued

A. The Department shall determine the following within 90 days after close of the submission period:

1. The total amount of the request for each application which is approved under R18-12-709, and any feasibility determination expenditure incurred by the Department in complying with the requirements of R18-12-710. Subject to the provisions of R18-12-703, the total of the amount approved and the feasibility determination expense shall be the amount of the grant issue;
2. The total number of priority ranking points allocated to each applicant under R18-12-711 or R18-12-712;
3. The amount of funds available for each classification of applicant in accordance with R18-12-701(2) and (3); and
4. The date on which each complete application was received or, if the application was not complete, the date on which the information requested in the deficiency statement which completed the application was received.

B. The Department shall rank each application within each applicant classification in numerical order by priority ranking points with the greatest number of priority ranking points being the highest rank.

C. From the total amount of funds available for each applicant classification, the Department shall subtract, in descending order of total priority ranking points allocated to each applicant, the amount approved for each eligible project until all available funds are committed. Applications that have funds committed shall be approved for issuance. Applications that do not have funds committed shall be denied for issuance.

D. If two or more applicants have the same number of priority ranking points and available grant funds are insufficient to make issues to all of these applicants, the applications shall be ranked by date received. The application with the earliest received date stamped on the application shall have 1st commitment for grant issue. The application with the next earliest date received shall have next commitment, and so forth until all available grant funds are committed. If an application was received incomplete and the deficiencies were corrected later, the application shall be deemed received on the date the material completing the application was received.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2).

R18-12-714. Grant Issuance; Notification; Payment

A. Not later than 90 days after the end of the submission period or, if applicable, the resubmission period, the Department shall notify each applicant in writing of the denial or approval of a grant issuance. The determination of denial or approval shall be made in accordance with R18-12-713. A notice of grant approval shall contain all of the following:

1. A statement of the original amount of the applicant's grant request,
2. An explanation of all reductions or adjustments that reduce or change the original grant request amount and the reason for each change,
3. A statement of the amount of the grant issue, and
4. The provisions of subsections (B) through (D).

B. The Department shall not make any grant payment to the applicant or a person providing services or equipment to the applicant until the Department receives all of the following:

1. Proof of surety bond, general liability insurance, mechanic's lien and contract if required under R18-12-707. The grant applicant may submit these documents to the Department before or after commencement or completion of the work that is the subject of the grant application but shall submit these documents not later than 60 days after receiving the notice of grant issue approval, measured from the date of the certified mail return receipt.
2. Invoices for work performed or equipment installed in conjunction with the eligible project. If the work performed is an eligible project under R18-12-702(A)(1), (2), (3), or (5), then each invoice shall reference the work performed or the equipment installed to the specific item or task in the work plan. If the work performed is an eligible project under R18-12-702(A)(4), then the applicant shall submit a copy of the direct payment or reimbursement determinations received pursuant to R18-12-609(A) in addition to the invoices for that work.
3. For work performed that is not an eligible project under R18-12-702(A)(4), a written statement, signed by the applicant and the person acting as general contractor on the eligible project, which certifies that all work, equipment, or materials itemized on each invoice have been performed, used, or installed in accordance with this Chapter. The statement shall contain, for each invoice itemized, the invoice number and the total amount of the

invoice. The signatures appearing on the certification shall be notarized.

4. An agreement signed by the applicant and the person serving as general contractor on the approved eligible project, which designates the name to be shown as payee on all warrants issued in payment for work and equipment on the approved project.

C. The Department shall not make total payments that exceed the grant amount approved by the Department in accordance with this Article, or that exceed the amount actually incurred to complete the eligible project, whichever is less. The Department shall not make payments to cover the cost of work that is not an eligible project under R18-12-702 unless the cost is for professional services directly related to the preparation of the grant application that are approved by the Department.

D. If all of the requirements of subsection (B) are met, and subject to the provisions of subsection (C), the Department shall issue a warrant for the amount of the submitted invoice or invoices. If an applicant is notified of a grant issuance but fails to meet the requirements of subsection (B)(1) not later than 60 days after receiving the notice of grant issue measured from the date of the certified mail return receipt, then the Department shall inform the applicant in writing that the grant issue has been forfeited by the applicant. The Department shall return a forfeited grant issue to the grant fund.

Historical Note
Adopted effective May 23, 1996 (Supp. 96-2). Amended effective October 21, 1998 (Supp. 98-4).

ARTICLE 8. TANK SERVICE PROVIDER CERTIFICATION

R18-12-801. Applicability

A. Beginning from and after December 31, 1996, a person shall not perform tank service on an underground storage tank system unless the person is certified under this Article by the Department or is supervised by a person certified under this Article by the Department in accordance with R18-12-802 or R18-12-806. The certification requirements of this Article shall not apply to the site assessment or sampling requirements of this Chapter.

B. A person who performs or supervises tank service shall present to the Department proof of certification when requested by the Department.

Historical Note
Adopted effective December 6, 1996 (Supp. 96-4).

R18-12-802. Transition

A. If a tank service provider does not obtain certification pursuant to R18-12-806 by January 31, 1997, the tank service provider who is subject to the requirements of this Article shall request, before January 31, 1997 temporary certification in writing from the Department. The request for temporary certification shall be submitted to the Department on the application form described under R18-12-806, except only the information described under R18-12-806(B)(1), (B)(2), (B)(4), and (B)(5), shall be included. The Department shall issue a temporary certification card for the tank service category requested within 15 days following receipt of an administratively complete application.

B. A temporary certification granted pursuant to subsection (A) of this Section expires March 31, 1997.

C. When a tank service provider receives certification pursuant to R18-12-806, temporary certification is void.

D. Temporary certification granted pursuant to subsection (A) cannot be used to satisfy the requirements under R18-12-601.

Historical Note
Adopted effective December 6, 1996 (Supp. 96-4).

R18-12-803. Categories of Certification

The Department may certify a person who performs or supervises tank service in any one or more of the following categories:

1. Installation and retrofit of an UST,
2. Tightness testing of an UST,
3. Cathodic protection testing of an UST,
4. Decommissioning of an UST,
5. Interior lining of an UST.

Historical Note
Adopted effective December 6, 1996 (Supp. 96-4).

R18-12-804. International Fire Code Institute Certification; Manufacturer Certification

A person qualifies for certification by the Department as a tank service provider if the following conditions are met:

1. The person holds certification from IFCI for the category of certification being sought.
2. If required by the manufacturer, the person holds a manufacturer's certification for the use of a piece of equipment or methodology in addition to holding the IFCI certification for the category of certification being sought.
3. The person submits evidence of qualification under this Section for the category of certification being sought in accordance with R18-12-806(B)(3).

Historical Note
Adopted effective December 6, 1996 (Supp. 96-4).

R18-12-805. Alternative Certification

A. A person qualifies for certification by the Department as a tank service provider under this Section if the requirements of R18-12-804(1) cannot be met because an IFCI certification is not available for the category of certification being sought and all of the following conditions exist:

1. The manufacturer of the technology has a process for certification of tank service providers and the person seeking qualification under this Section has received the manufacturer's certification.
2. The manufacturer's certification is based on training or examination that evaluates competency specific to the category of tank service;
3. The certification training or examination emphasizes the applicable codes of practice found in A.R.S. Title 49, Chapter 6 and the rules promulgated thereunder;
4. The tank service technology is protective of human health and the environment;
5. The person submits evidence of qualification under this subsection for the category of certification being sought in accordance with R18-12-806 (B)(3).

B. A person qualifies for certification by the Department for the category of cathodic protection tester without holding an IFCI certification if all the following conditions exist:

1. The person holds certification by the National Association of Corrosion Engineers as a "corrosion specialist," "cathodic protection specialist," "senior corrosion technologist," or a "corrosion technologist."
2. The person submits evidence of qualification under this subsection in accordance with R18-12-806(B)(3).

C. If certification is developed by IFCI for a category that has been previously certified under subsection (A) of this Section, the IFCI certification shall be required. The Department shall notify, in writing, all tank service providers certified for that category of the existence of the replacement IFCI certification. A certified tank service provider will have 90 days from the date of receipt of notice from the Department to obtain the

IFCI certification under R18-12-804. Alternative certification under this Section is void 91 days after the tank service provider is notified that the IFCI certification is required for certification under this Article.

Historical Note
Adopted effective December 6, 1996 (Supp. 96-4).

R18-12-806. Application; Certification

A. Except as provided in R18-12-802, a person who seeks to supervise or perform any category of tank service under R18-12-803 beginning from and after December 31, 1996, shall obtain and submit a completed application form to the Department on the form prescribed by the Department. A person who seeks certification for more than one category shall submit a separate application form for each category.

B. A completed application form shall include all the following information:

1. Name, address (mail and physical), telephone number (home and business), aliases, and employer;
2. Name of the category of tank service for which certification is sought;
3. Proof of qualification as described in R18-12-804 or R18-12-805 for the category of tank service for which certification is being sought;
4. Two 1 inch by 1 inch color portraits, of the applicant;
5. A certification statement that the information submitted pursuant to this subsection is true, accurate, and complete.

C. The Department shall either grant or deny certification within an overall time-frame of 30 days after receipt of an application as evidenced by the date stamped on the application by the Department upon receipt. Within 15 days of receipt of the application, the Department shall issue, by certified mail or personal service, a notice of deficiency if the application is not administratively complete. If the deficiency is not cured within 30 days of the applicant's receipt of a notice of deficiency, as evidenced by the return receipt or documentation of service, the application is denied and re-application is required for certification. If the application is administratively complete, the Department shall have the remaining number of the total of 30 days for substantive review of the application to either issue a certification card or deny the application. If an application is denied, a hearing may be requested pursuant to A.R.S. Title 41, Chapter 6, Article 10. If the Department issues a written notice of deficiencies within the administrative completeness time-frame, the administrative completeness review time-frame and the overall time-frame are suspended from the date the notice is issued until the date that the Department receives the missing information from the applicant. The date the Department receives the missing information is determined by the date received stamp on the missing information.

Historical Note
Adopted effective December 6, 1996 (Supp. 96-4).

R18-12-807. Duration; Renewal; Changes

A. Certification under this Article shall be issued for two years unless the qualifying certification under R18-12-804 or R18-12-805 is valid for a period of time less than two years. Certification expires either at the expiration of the qualifying certification under R18-12-804 or one year following issuance of certification under R18-12-806, whichever is later. Certification under R18-12-805 requirements shall be for the period allowed under the technology manufacturer's certification or two years, whichever is shorter, but in no event for a period of time less than one year.

B. A person seeking renewal of certification shall submit to the Department an application form, in accordance with the provisions of R18-12-806.

C. The tank service provider shall notify the Department of any change to the information reported in the application form on file with the Department, by submitting a new application form within 30 days after the change.

Historical Note
Adopted effective December 6, 1996 (Supp. 96-4).

R18-12-808. Discontinuation of Tank Service

A. If the Department discovers that a supervisor or provider of tank service is or has supervised or performed tank service in Arizona without the Department certification required under this Article, or the tank service supervised or performed by a certified person is not in compliance with A.R.S. Title 49, Chapter 6, and the rules promulgated thereunder, the Department shall immediately notify the person performing tank service to stop work and make the area safe by securing the tank area to prevent bodily injury and unauthorized access.

B. If the Department stops work pursuant to subsection (A), before work can continue, a certified tank service provider shall determine if the work already completed complies with the standards set forth in A.R.S. Title 49, Chapter 6, and the rules promulgated thereunder and certify the work which meets those standards.

Historical Note
Adopted effective December 6, 1996 (Supp. 96-4).

R18-12-809. Suspension; Revocation of Certification

A. If the Department discovers that a tank service provider has falsified documents to obtain certification under this Article, the Department shall notify the tank service provider in writing, by certified mail or personal service, that certification is revoked effective 30 days after receipt of the notice, as evidenced by the return receipt or documentation of service, unless a hearing is requested pursuant to A.R.S. Title 41, Chapter 6, Article 10. The revocation under this subsection shall be for two years. The Department shall not accept an application from an individual whose certification has been revoked under this subsection for the revoked category of certification until the end of the revocation period.

B. If the Department discovers that a tank service provider has not performed tank service in compliance with A.R.S. Title 49, Chapter 6 and the rules promulgated thereunder, the Department shall notify the tank service provider in writing, by certified mail or personal service, that certification is suspended for 30 days, effective 30 days after receipt of the notice, as evidenced by the return receipt or documentation of service, unless a hearing is requested pursuant to A.R.S. Title 41, Chapter 6, Article 10.

C. If the Department discovers that a tank service provider has not performed tank service in compliance with A.R.S. Title 49, Chapter 6 and the rules promulgated thereunder, after the individual has had certification suspended pursuant to subsection (B), the Department shall notify the tank service provider in writing, by certified mail or personal service, that certification is suspended for 90 days, effective 30 days after receipt of the notice as evidenced by the return receipt or documentation of service, unless a hearing is requested pursuant to A.R.S. Title 41, Chapter 6, Article 10. The tank service provider shall surrender the certification card to the Department within 15 days following the effective date of the suspension. Failure to surrender the certification card shall result in revocation of certification for the remainder of the certification period. The tank

service provider may request the certification card be returned after the 90-day suspension.

D. If the Department discovers that a tank service provider has not performed tank service in compliance with A.R.S. Title 49, Chapter 6 and the rules promulgated thereunder, after the individual has had certification suspended pursuant to subsection (C), the Department shall notify the tank service provider in writing, by certified mail or personal service, that certification is revoked for two years, effective 30 days after receipt of the notice as evidenced by the return receipt or documentation of service, unless a hearing is requested pursuant to A.R.S. Title 41, Chapter 6, Article 10. The tank service provider shall surrender the certification card to the Department within 15 days following the effective date of the revocation. The Department shall not accept an application from an individual whose certification has been revoked under this subsection for the revoked category of certification until the end of the revocation period.

E. The Department shall publish, on a quarterly basis, a list of all tank service providers who have received suspension or revocation pursuant to this Section during that quarter or whose revocation or suspension remains in effect for any portion of that quarter.

Historical Note

Adopted effective December 6, 1996 (Supp. 96-4).